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ABSTRACT

This is the report of the Senate Committee on Governmental Affairs on S.210, a bill to establish a department of education within the executive department. The text of the bill is included. (IRT)

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96th Congress } SENATE { Report
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DEPARTMENT OF EDUCATION ORGANIZATION ACT OF 1979

REPORT

OF THE

COMMITTEE ON GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

TO ACCOMPANY

S. 210

TO ESTABLISH A DEPARTMENT OF EDUCATION

together with

ADDITIONAL AND MINORITY VIEWS

U S DEPARTMENT OF HEALTH,
EDUCATION & WELFARE
NATIONAL INSTITUTE OF
EDUCATION

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March 27 (legislative day, February 22), 1979.—Ordered to be printed

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CONTENTS

Page

The need for a Department of Education 1
Purpose of the legislation 9
Improving the Federal Government's Responsibilities in Education 14
History of the legislation 20
Summary of the legislation 23
Summary of hearings 28
Areas of discussion 31
    State and local responsibilities for education 31
    Citizen involvement 33
    Office for Civil Rights 35
    Department role in elementary and secondary education 38
    Department role in postsecondary education 38
    Office of Occupational, Adult, and Community Education 41
    Vocational rehabilitation 43
    Department of Defense overseas dependents schools 46
    Science education 50
    HUD college housing program 53
    Federal Interagency Committee on Education 54
    Research and improvement in education 55
    HEW's special institutions 59
    USDA graduate school 60
    Consolidation of student aid programs 61
    Migrant education 62
Committee action 63
Rollcall vote in committee 63
Section-by-section analysis 64
Evaluation of regulatory impact 90
Estimated cost of the legislation 91
Additional and minority views 92, 94, 95, 97
Changes in existing law 100
Text of S. 210 as reported 111

96th Congress | **SENATE** | **Report**
1st Session | | No. 96-49

DEPARTMENT OF EDUCATION ORGANIZATION ACT OF 1979

March 27 (legislative day, February 22), 1979.—Ordered to be printed

Mr. Ribicoff, from the Committee on Governmental Affairs, submitted the following

REPORT

[To accompany S. 210]

The Committee on Governmental Affairs, to which was referred the bill (S. 210) to establish a Department of Education in the executive branch, and for other purposes, having considered the same, reports favorably thereon with an amendment in the nature of a substitute and recommends that the bill as amended do pass.

The Need for a Department of Education

The Committee on Governmental Affairs has spent more than two years considering legislation to separate education from HEW and give it Cabinet rank. In its lengthy investigation, the Committee has found there is indeed a significant, but carefully restrained Federal role in education. Total Federal spending for education is more than $25 billion annually. That Federal effort, however, is severely hampered by its burial in HEW, its burial in HEW, its confusing lines of authority and administration, its fragmentation, and its obvious lack of direction. A hampered and deficient Federal education effort places an adverse strain on States, localities, and public and nonpublic educational institutions. The Committee believes the establishment of a Cabinet-level Department of Education will go far towards remedying these problems, thereby enabling the Federal government to improve its contribution to the betterment of American education. There is a strong and persuasive need for a Department of Education.

INCREASED STATUS AND VISIBILITY

Establishment of a Department of Education would greatly increase the status and visibility of education in the Federal government and give it rightful recognition as a fundamental activity of American life.

Throughout the Federal government today, education is lodged between and under layers of bureaucracy, and resides in fourth and fifth-level bureaus and offices. There is no one Federal official who speaks for education's needs and problems—and no one to work with Congress and the President to develop remedies for them.

In the United States, the people are involved in decisionmaking at all levels of government, so education is and should be of concern to Federal, State, and local governments. The process of education is basic to our society and to the proper functioning of democratic government. Democracy depends for its very existence on a highly educated citizenry.

Education is, perhaps, the single most pervasive function of American society. Education today directly involves more than 60 million Americans. Total education spending in the U.S. today exceeds that spent on the national defense by one-third. More than $145 billion—nearly 10 percent of the gross national product—was spent nationwide last year on education. It is as important a function as commerce, labor, housing, transportation, or agriculture (which are represented in the nation's Cabinet).

In testimony before the Committee, U.S. Commissioner of Education Ernest Boyer said:

> Education has always been the driving engine of this democracy. It stimulates our culture. It contributes dramatically to our economy. It is the foundation upon which our government is built. Education and democracy are inextricably interlocked, and it should have full partnership at the highest levels of government where the Nation's priorities are shaped.

More and more, it is apparent how closely education meshes with all other facets of American life. And, in this increasingly complex world, education programs are developing everywhere just to explain new technologies in energy, health, science, agriculture, business, and many other fields.

There is a real need for a Cabinet Secretary of Education, who could work together with other members of the Cabinet to better explain the world's complexities and prepare Americans for their future.

The Reverend Jesse Jackson told the Committee:

> The elimination of ignorance, poverty, and disease requires increased emphasis on education. Aiding the developing third and fourth world nations requires education. The issues of world peace and justice demand that increased education play a part. Space travel and ecological concerns require an increased educational focus. Creatively developing the world's renewable energy resources demands mind development. In short, everything worth doing and accomplishing has education as a foundation from which to start. . . . Education needs a full-time advocate.

Creation of a Department of Education, headed by a Cabinet Secretary of Education, will elevate education to the highest levels of the Federal government. The Cabinet signifies all that is important to us, and represents the nation's council of men and women of great wisdom and intellect. They are advisors not only to the President and to the Congress, but to the American people.

In testimony before the Committee, it was cited that the Federal government's highest ranking education officials never had private meetings with the President of the United States. The Committee was also told that the Federal Officials discussing education most with the President is not the Secretary of HEW, nor the Commissioner of Education. Instead, it is the Attorney General.

Access to the President—something rarely realized before by a Federal education official—would be institutionalized through the establishment of the Department of Education.

The Committee believes the establishment of the Department of Education will increase significantly the status and visibility of education not only within the Federal government, but also within the American conscience. As a result, education would continue to play an integral part of our lives.

Increasing the status and visibility of education will have the beneficial effect of increasing scrutiny of, and participation in, education programs and services by the general public. A Cabinet Secretary of Education will be in a position to bring to the attention of Congress, the President, and the American people education matters which are ever-changing.

HEW'S INSTITUTIONAL DEFICIENCIES

Of paramount concern to the Committee has been the extreme size, responsibilities, and unmanageability of the Department of Health, Education, and Welfare, the largest Cabinet department of the U.S. government.

Only two organizational entities on earth have budgets larger than HEW's—the governments of the United States and of the Soviet Union. In Fiscal Year 1980, HEW's budget will break the $200 billion mark—nearly 40 per cent of the total Federal budget. Of this, nearly 95 per cent will be spent on health and welfare programs, the remainder on education ($13 billion).

HEW's more than 325 programs inevitably touch nearly every living American. Social Security, Medicare, Medicaid, Aid to Families with Dependent Children, and a host of other comprehensive programs serve most of the Nation's 220 million citizens. They are all vital to the daily survival of many people. HEW's mandate to safeguard the health and welfare of the American people is an awesome responsibility. So awesome, in fact, that the HEW Secretary has all he or she can do just managing health and welfare services. Education inevitably suffers. In its examination of the history of HEW, the Committee has found a severe institutional defect in the Federal structure—the lumping of health, education, and welfare programs together in one Cabinet department.

Repeatedly, throughout its 25-year history, HEW has been reorganized and reorganized for better management. There has been little success. Last year, the HEW Inspector General reported as much as $8 billion in fraud and abuse in health and welfare programs.

But no amount of in-house reorganization could correct the situation within HEW. The Committee finds that the overall mission of

HEW has changed so substantially since its formation that education is "out-of-place" in that Department. Education is operating separately and distinctly from health and welfare, and benefits little from nonexistent "linkages" to them.

In the last 20 years, the Federal government's role in health and welfare has expanded 10 times faster than that of education. The basic mission of HEW, consequently, has slowly evolved into funding and administering income maintenance programs—all in the health and welfare category. In this process, education has become more and more out-of-place in HEW because it is not an income maintenance activity. As such, there is virtually no interaction between education programs on the one hand, and health and welfare programs on the other.

Putting health, education, and welfare together in one Cabinet department in order to develop a comprehensive human services approach in government has not worked in the past at HEW. The facts indicate it will not work in the future. No other country in the world places these three components together in one governmental agency.

In testimony before the Committee, Education Division employees said they rarely conduct discussions or even have contact with the other 150,000 employees who work for HEW. They have reason to. Most of the six former U.S. Commissioners of Education who testified before the Committee in October 1977 agreed they were involved more in coordination with those programs outside HEW, such as the school lunch program in USDA, or the CETA program in the Department of Labor. Rufus Miles, Jr., a former director of administration at HEW for more than 12 years, told the Committee:

> In all my years at HEW, I never saw any significant coordination of programs and functions between the Office of Education and the other components of HEW. This coordination * * * is simply a figment of the imagination.

In managing a Cabinet department which has almost half of the entire U.S. government budget, most of which is in health and welfare programs, it is unreasonable to expect the HEW Secretary to devote an adequate amount of attention to education programs. The HEW Secretary carries a disproportionate burden of Federal social service responsibilities. No matter how capable the individual, the HEW Secretary simply does not have the time and energy to devote the attention necessary to manage efficiently the "H," the "W," and the "E" simultaneously. President Carter surprised the Nation last year by observing the Cabinet official who discussed education with him most was the Attorney General.

The Committee believes the establishment of the Department of Education will significantly improve the administration of, and attention given to, health, education, and welfare programs. Our Nation's health and welfare programs are so important and vital that they are deserving of the undivided attention of a single Cabinet secretary. In the same vein, so too are our education programs so very important as to merit high-level leadership at the Cabinet level.

Taking the "E" out of HEW would free the HEW Secretary of one major responsibility—education—so that he or she could better manage the rapidly-growing health and welfare programs. The Committee finds no justification for administering Federal education programs in their present form with Federal health and welfare programs in one agency. The lumping together of health, education, and welfare in a single Cabinet department has created so severe an institutional deficiency that all three components suffer from lack of attention, oversight, and scrutiny.

FRAGMENTED EDUCATION LEADERSHIP

Working within the HEW system has been a painful and frustrating job for past U.S. commissioners of education. In the last 13 years, the post of U.S. Commissioner of Education has changed hands 14 different times. This tremendous lack of stability does serious harm to the Federal education effort. Lack of continuity in programs and policies is common, and has an adverse impact on State and local governments, public and nonpublic educational institutions.

Because of the importance of education in this country, the top education position in the U.S. should be attractive enough that the most qualified people continue to be attracted to government service. In the present situation, such is not the case.

The Department of Education is sorely needed to correct the serious fragmentation in education leadership within the Federal government. As education programs have proliferated throughout nearly every Federal agency, the number of scattered, low-level bureaucrats has also increased. Within the HEW Education Division itself, leadership is split between the U.S. Commissioner of Education and the Assistant Secretary for Education. Congress created the position of Assistant Secretary in 1972 in an attempt to elevate the status of education within HEW, but left most program responsibility with the Commissioner. In recent years, the two positions have often conflicted.

By establishing the Department of Education, the positions of Commissioner and Assistant Secretary would automatically be abolished, and primary responsibility for education within the Federal government would be placed in one official—the Secretary of Education. Elevating the Federal government's top education official to the rank of Cabinet secretary would eliminate nearly all of this frustration presently found within HEW and attract the most capable men and women for the job.

INCREASED ACCOUNTABILITY

As the lead Federal official for education, the Secretary of Education will also be the most accountable. The Committee believes one of the most tangible benefits from the establishment of the Department of Education is the increased accountability of Federal education officials and programs.

In the present HEW set-up, education officials cannot be held accountable because they are submerged under layers of bureaucracy and because they are not actually the individuals responsible for many decisions. In HEW, there are three layers of bureaucracy between the Assistant Secretary for Education and the HEW Secretary, and still another layer on top of the Commissioner of Education. Most of the ultimate responsibility for policymaking and decisions on rules and regulations rests not with the Commissioner, and not with the Assistant Secretary, but instead with one of the thousands of sometimes

9

anonymous bureaucrats in that large layer known as the "Office of the Secretary" of HEW.

Since the HEW Secretary spends the bulk of his or her time managing and dealing with health and welfare issues, a significant amount of authority is delegated to staffers of the Office of the Secretary for clearing departmental decisions on education. It is difficult for Congress or the public to hold the HEW Secretary accountable for education problems because of this.

The end result is little or no accountability in Federal education programs in the existing structure. Today, all education officials must "report to someone else." And, for citizens, parents, educators, and students, finding that "someone else" is troublesome.

But, by removing education from HEW and making it a separate Cabinet agency, there is no "someone else." The new Secretary of Education, and the ten principal subordinate officers, will be clearly visible, responsible, and confirmed by the Senate. For the first time, one individual alone will be the out-front decisionmaker and policymaker for the Federal level—the Secretary of Education. The level of accountability will rise substantially.

IMPROVED MANAGEMENT OF EDUCATION PROGRAMS

Establishing a Department of Education will greatly improve the management of Federal education programs through the creation of a clearly-ordered, well-defined structure.

Presently, there are two components of the Education Division of HEW—the office of the Assistant Secretary for Education, and the U.S. Office of Education. In its frustration over the years in trying to make education programs operate better within the HEW complex, Congress has found it necessary to reach down four and five layers deep within the Education Division and specify the structure of offices and bureaus. Nearly all of the 30-odd offices in the "E" are locked into place by statute. Their location and reporting relationships are established by law. There are few agencies of the Federal government where Congress has, over a period of time, mandated such an inflexible arrangement and structure.

The result of this piecemeal approach to government organization has been a structure that is both confusing and duplicative. The Education Division contains at least 22 "principal" officers and offices, most of which report by law to the Commissioner of Education. A few offices report to the Assistant Secretary. The continuing question has been, who has authority over who?

OFFICES AND REPORTING RELATIONSHIPS IN HEW'S EDUCATION DIVISION

Reporting to the Commissioner of Education: [1]
- Office of Policy Studies.
- Office of Legislation.
- Office of Public Affairs.
- Office of Executive Operations.
- Office of Educational Community Liaison.
- Office of School Improvement.
- Executive Deputy Commissioner for Educational Programs.

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[1] The Commissioner reports to the Secretary through the Assistant Secretary.

Regional OE Offices.
Teachers Corps.
Office of Career Education.
Bureau of Student Financial Assistance.
Office of Nonpublic Education.
Office of Bilingual Education.
Right to Read.
Executive Deputy Commissioner for Resources/Operations.[2]
Horace Mann Learning Center.
Bureau of Elementary and Secondary Education.
Bureau of Education for the Handicapped.
Bureau of Higher and Continuing Education.
Office of Indian Education.
Bureau of Occupational and Adult Education.

Reporting to the Assistant Secretary for Education:[3]
Office of Management and Budget.
Office of Policy Development.
National Center for Education Statistics.
Fund for the Improvement of Postsecondary Education.
National Council on Educational Research.
National Institute of Education.
National Museum Services Board.[4]
Institute of Museum Services.[4]

In the legislation reported by the Committee (S. 210), a simple and clearly-ordered structure for Federal education programs would be established. The number of principal officers and offices will be reduced to just 11, all reporting directly to one individual—the Secretary of Education. Further, Section 413 of the bill provides to the Secretary a method for reorganizing and rearranging the myriad of offices and reporting relationships transferred to the Department of Education. The Committee believes this will aid significantly in increasing the management efficiency and effectiveness of these programs and services.

OPPORTUNITIES FOR REDUCING FEDERAL BURDENS

Improving management, accountability, fragmented leadership, and coordination will all contribute substantially to presenting good opportunities for reducing Federal government burdens in education.

The paperwork-red tape burden from Federal education programs has steadily escalated to wasteful levels over the past two decades. One State education commissioner told the Committee he is forced to hire more than 20 staffers at average annual salaries of $20,000 just to keep up with Federal paperwork, rules, and regulations. The situation today is one where literally dozens of low-level Federal education officials are scattered throughout as many as 40 different agencies, each operating separately and independently of one another, each writing their own rules and regulations, each perpetuating their forms and data requirements. As proposed education rules and regulations creep up through the many layers of HEW and other cabinet agencies for clearance and alterations, there is a lack of focus, of perspective, of coordination, and certainly much delay in delivering funds where Congress mandates. State and local governments, public and nonpublic education institutions suffer from this confusing, duplicative situation, and in the long run parents and students suffer.

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[2] Includes separate offices for Management Evaluation/Dissemination, planning/Budgeting, Audits/Appeals, and Regulations Management.

[3] Technically, the Assistant Secretary is the principal officer of the Education Division.

[4] The Museum Services Board and Institute report to the Secretary by law, but principal oversight has been delegated to the Assistant Secretary.

In establishing the Department of Education, there are many ways in which Federal burdens can be reduced. First, the bill streamlines the structure to increase efficiency. For example, at least 15 offices would be eliminated from the clearance process for education regulations, thereby enabling the Federal government to cut clearance time down from as high as two and three years to less than one. Second, by increasing the accountability of Federal education officials, unreasonable or burdensome regulations will be pinpointed, and more openly debated and focused on by educators across the country. They will know exactly who is responsible for the decision. Third, a significant level of consolidation is achieved in the legislation so as to reduce paperwork and red tape. Finally, and perhaps most importantly, there will be a chief education official—the Secretary of Education—who will be on a par with other Cabinet secretaries and will have the clout to work with them and point out conflicting and duplicative rules, regulations, and paperwork in their respective agencies.

The Committee believes the Department of Education will work effectively towards reducing and simplifying the existing burdens that come with many Federal education programs.

MINIMIZED COSTS, MAXIMIZED SAVINGS

The Committee believes the establishment of the Department of Education will result in no additional cost, but will actually save millions of dollars. The Committee has worked to reduce administrative costs associated with Federal education programs and to increase the management efficiency, while at the same time elevating the status of education in the Federal government.

The legislation, as reported, provides for eleven principal officers and offices in the Department, down from nearly 30 connected with those offices and programs transferred. The Department of Education's budget ($14.5 billion), made up of existing staff and appropriations, will be larger than that of five existing Cabinet departments. But the Department will have the least amount of executive level positions, assistant secretaries, supergrades, and full-time permanent positions of any Cabinet department.

Although the bill provides for 42 new supergrades to assist in managing the department, the Office of Management and Budget projects that at least 350–450 positions will be eliminated in the many layers of the existing HEW structure. In the many offices dealing with education at HEW, there is a tremendous amount of duplication in staff responsibilities. For example, there are offices for management, budget, policy, planning and evaluation, legislative affairs, and public affairs in the Office of the Commissioner, in the Office of the Assistant Secretary, and in the Office of the Secretary of HEW. Establishment of the Department of Education will eliminate at least three layers of these functions and replace them with one. The savings in dollars will be substantial.

The Committee has also included a section in the legislation, Section 403, which will mandate that Congress establish each year an "end strength" for personnel employed by the Department of Education. This will be a useful device for Congress to control what some have termed "bureaucratic creep", where personnel are added and raised in status sometimes unnecessarily.

The Office of Management and Budget further estimates a long-term savings of more than $100 million through the establishment of the Department of Education. Giving the Secretary of Education the flexibility to restructure the conglomeration of small offices now existing in the HEW Education Division will improve efficiency. By consolidating the administrative functions of many of these programs, substantial savings could be realized. The new Department will also be in an excellent position to institute an improved financial management and audit system exclusively for education programs. Such a system could aid greatly in clearing up past-due accounts for student loan programs, and in auditing large education funding programs, such as the widely-known "Title I" program.

And finally, the Committee believes that by removing the "E" from HEW, there will be opportunities to improve the management and efficiency of health and welfare programs. Fraud and abuse has run high in the past in health and welfare programs at HEW. Last year, the HEW Inspector General found almost $8 billion was misspent. The Department of Health and Human Services will be in a better position to devote more scrutiny to health and welfare programs once major education responsibilities are transferred to the Department of Education.

PUBLIC SUPPORT FOR THE DEPARTMENT OF EDUCATION

The Committee is impressed with the widespread public support for a Cabinet-level Department of Education.

Parents, citizens, students, teachers, school administrators, State and local government officials, and many other individuals from all walks of life have contacted the Committee to express their support for the new Department.

More than 100 major national organizations and associations have endorsed the Department of Education proposal. They include most education organizations, and labor, civil rights, citizen, and parent groups. It is important to note the Department is supported by a number of State and local organizations, including the National School Boards Association, National Association of State Boards of Education, Council of Chief State School Officers, Education Commission of the States, and National Conference of State Legislatures.

The Committee believes the establishment of the Department of Education is in concert with established and traditional American public support for education, and for efficient and responsive government.

Purpose of the Legislation

The purpose of S. 210 is to provide for the establishment of a separate Cabinet Department of Education.

President Carter, in his State of the Union Address January 23, 1979, commented on the importance of the new department:

"Education issues deserve far more attention than they receive in a Department as large and complex as H.E.W. * * *". The new department, he said, will "enable the Federal Government to be a more responsive and reliable partner with States, localities, and private institutions that have primary responsibility for education."

The need to provide equal access to education for all Americans, advancing technologies, declining school enrollments, failing confidence in public education, high drop-out rates, increasing numbers of older citizens interested in lifelong careers, displaced homemakers, and a myriad of other factors present new challenges to our educational institutions.

The bill specifically addresses the need for improved management of existing Federal education programs at the Federal level. Its purpose is to supplement and complement the efforts of States and local governments in their education efforts to meet the education challenges facing them.

At present, the Federal government is conducting education programs in nearly 40 different agencies at a cost of more than $25 billion in 1979. The rapid growth of Federal education programs has caused a piecemeal approach in their administration. There is no one to speak for education in the President's cabinet or to attempt to coordinate the myriad of education programs. Furthermore, a more serious problem is the lack of accountability for education at the Federal level. Although billions of dollars are spent, there is overlap and duplication of burdensome regulations which adds to the frustration of States and localities in the administration of Federal education programs. Thus, the purpose of S. 210 is to make the Federal education effort more effective and coordinated in order to improve the quality and administration of Federal assistance to education.

Education in the United States has traditionally been a function of State and local governments and private institutions. Over the past 25 years, education has commanded the largest single share of State and local governmental expenditures—38 percent.

The intention of S. 210 is to preserve this prerogative. There is a need to ensure that the Federal presence in education should be supportive, helpful and effective. Testimony before the Committee by Mary Berry, Assistant Secretary for Education of the Department of Health, Education, and Welfare, highlighted the limitations of the Federal role and policy in education. It has developed, she said—

> as a result of Congressional enactment and, to a limited extent, court decree. It has and must continue to be a secondary role—one that assists, not one that directs local and State governments, which have historically shouldered the primary responsibility for the public education of the very young, our college and university students, and the elderly.

Federal responsibility in education is especially focused on assisting State and local agencies to provide educational opportunities for the poor, the disadvantaged, the limited English-speaking and the handicapped. It is focused on ensuring that race, sex, age, national origin or handicapped status does not preclude access to and receipt of a quality education. Federal responsibility is also concerned with providing information and supporting research efforts which will advance education programs and learning opportunities. And, importantly, the Federal government has a responsibility to assist State and local education agencies in carrying out their statutory and State constitutional responsibilities.

The purposes outlined in the bill highlight the view of the Committee with respect to its intent in establishing the Department:

(1) To enable education to receive the appropriate emphasis at the Federal level. By establishing a Cabinet Department of Education, effective management and coordination of Federal programs can be substantially improved. The relatively low bureaucratic status of the Office of Education means that education receives less attention from the Cabinet and the President. The large number of existing Federal education programs has created management problems at the Federal, State, local, and institutional levels. The scattering of programs across Federal agencies has resulted in poor coordination in addition to multiple, duplicative and even conflicting regulations. Fragmentation at the Federal level has led to piecemeal approaches to education and education-related problems.

(2) To continue and strengthen the Federal commitment to ensuring access by every individual to equal educational opportunities. Equal educational opportunity has been and must remain a major educational goal of the Federal government. The Federal government has acted to ensure equality of educational opportunity for every American regardless of race, sex, age, ethnic heritage, economic disadvantage, or handicapped condition:

Racial minorities.—Through compliance efforts, technical assistance, and financial assistance the Federal government has promoted racial desegregation.

Handicapped.—Through Public Law 94–142 (the Education for All Handicapped Children Act) and section 504 of the Rehabilitation Act of 1972, the handicapped are guaranteed an appropriate education.

Language minorities.—Several Federal programs help to deal with the problems of children with limited English language skills.

Women.—Several Federal programs, and statutes such as the Women's Educational Equity Act, and title IX of the 1972 education amendments, are designed to help end sex discrimination.

Compensatory education.—Title I of the Elementary and Secondary Education Act has provided compensatory education for the economically disadvantaged.

Access to higher education.—The Higher Education Amendments of 1972 began to give students from low-income families access to higher education.

Native Americans.—A number of Federal programs in the Office of Education make it possible for Indians, Alaska Natives, and Aleuts to receive adequate education services.

Migrant children.—The Federal Government provides a variety of services for migrant children.

As a result of these and other Federal initiatives—increased access to postsecondary education, bilingual education, and the education of all handicapped children—schools and colleges have dramatically increased their efforts to meet the educational needs of children and youth, particularly those from poor families and minority backgrounds.

S. 210 ensures the continuation and strong support of the Federal commitment to ensuring equal educational opportunities for every individual regardless of race, sex, age, ethnicity, economic disadvantage, or handicapping conditions. In conjunction with this responsibility it establishes an Office for Civil Rights whose director would report directly to the Secretary. To emphasize the importance of civil rights compliance, the director's position is upgraded to an executive level IV.

(3) To supplement and complement the efforts of State, local, and tribal governments, the private sector, public, and nonpublic educational institutions, education research institutions, community organizations, parents and students to improve the quality of education.

S. 210 recognizes that Federal education policies should be founded on the recognition that Federal, State, and local governments, tribal governments, public and nonpublic institutions, communities, parents, teachers, and students are the prime participants in education policies and practices. One of the major purposes of the Department will be to provide a mechanism to better assist these groups in their efforts to improve the quality of education.

The bill establishes an Intergovernmental Advisory Council on Education. The Council would conduct studies and make recommendations to the Secretary and to the President and, where appropriate, to the Congress for improving the intergovernmental system for developing and carrying out educational policies.

The Council is designed to supplement and complement State and local efforts to meet the Nation's education needs.

Specific responsibilities in the area of intergovernmental relations have been assigned to the Under Secretary who will be involved in the day-to-day policy-making and budgetary decisions within the Department.

(4) To encourage the increased involvement of parents, students, and the community in the process relating to education, including the development and improvement of education programs and services. Not only would the Department of Education increase the visibility and attention given to education needs at the Federal level, but it is designed to increase the participation of families, communities, public and private schools, and State and local governments in this process.

A higher level of citizen participation in the educational decisionmaking process will serve to substantially increase public confidence in our educational system.

S. 210 recognizes the need for increased citizen involvement by providing for an effective structure through the proposed Office of Citizen, Parent, and Student Concern, and the Intergovernmental Advisory Council on Education, to ensure citizen involvement.

(5) To enable the Federal government to coordinate Federal education activities and programs more effectively through interagency cooperation, technical assistance, and evaluation of program effectiveness.

The establishment of the Department of Education will provide a mechanism to improve the coordination of Federal education programs. The current status of education in HEW and in other Federal departments has resulted in duplication and lack of coordination of the Federal education effort. It will provide for a streamlined organizational structure. Presently, education in HEW consists of at least 22 principal offices which either report to the Secretary of HEW, the Commissioner of Education, the Assistant Secretary of Education or to the Director of the National Institute of Education. The new Department would eliminate this duplication and, thereby, provide an opportunity for the Secretary of Education to coordinate education programs internally and with other Federal agencies. The statutory authorization of the Federal Interagency Committee on Education, with the Secretary of Education as its Chair, provides a vehicle to improve this coordination.

(6) To provide an improved organizational structure for Federal assistance in the support of basic and applied educational research and to implement the findings of such research at the local level.

The importance of education to the American people remains high. Yet, at the same time, concern over the lack of quality education is more and more evident. This is demonstrated by concern over declining student achievement, as measured by scholastic aptitude tests and decreased public confidence in the quality of education.

The bill provides a structure to assist in promoting the quality of and the relevance of education to individual needs, including the assurance of an adequate level of skill development and lifelong learning opportunities.

S. 210 provides for a consolidation of the Federal research functions with respect to educational improvement in the Department. With the establishment of the Office of Educational Research and Improvement, a wide range of disparate and overlapping programs will be brought together. The establishment of such an Office, headed by an Assistant Secretary for Educational Research and Improvement, will help support research efforts to improve teaching and learning.

(7) To supplement and complement the efforts of State, local, tribal, public and nonpublic agencies by providing support to the articulated educational needs of such agencies, especially with respect to the simplification of the process, procedures, and administrative structures for the dispersal of Federal funds, including the reduction of paperwork. In testimony before the Committee, Dr. A. Craig Phillips, President, Council of Chief State School Officers, stated, "Efficiency in delivering educational services would be greatly enhanced by creating a single agency so that

responsibility for Federal action or inaction would be focused and not diffused . . . each agency, with its own rules and regulations, runs its own show, does its own thing, so to speak, with no single agency having the ultimate responsibility for the success or failure of it all." The establishment of the Department provides a mechanism to assist States and localities and educational institutions in their own educational policies and programs. By eliminating the many layers of bureaucracy within HEW and providing education with a single focus, the Secretary will be able to coordinate education activities within the Department and with other agencies and Departments in order to reduce duplication and unnecessary regulations.

IMPROVING THE FEDERAL GOVERNMENT'S RESPONSIBILITIES IN EDUCATION

PROBLEMS IN AMERICAN EDUCATION

The Committee's consideration of Department of Education legislation comes at a time when problems in American education are particularly serious.

While Americans continue to strongly believe in education as the key to success and fulfillment, their confidence in the capabilities of our educational institutions continues to fall. Recent polls continue to show that more than half of the public feels the quality of education in our schools is declining.

With the decline in confidence comes a decline in educational awareness and interest, and a drop-off of parent involvement in the schools.

This low level of confidence stems from a variety of sources. Achievement and college entrance test scores show a persistent, long decline over the last decade. More and more students are found to enter college with deficiencies in basic skills. Many colleges and universities are resorting to their own basic skills tests and brush-up courses.

Recent Federal studies have shown students are becoming more disillusioned with their public schools. Student absenteeism is on the rise. There is a shocking escalation in vandalism. A large number of teachers are either hurt or killed each year by violent students. The schools are losing their ability to be instruments of social change by this disillusionment.

School officials continue to be perplexed by the problem of reconciling declining enrollments and increasing costs. As the birth rate in the U.S. continues its steady downturn, inflation has driven up the cost of educating children. Instead of being able to save money where fewer students are attending school, a local school district today is actually paying more than before.

A disturbing result of this lack of confidence is the rebellion of many American taxpayers against taxes to finance public education. Bond issues are being defeated in record numbers. Many States are being forced to totally change their methods of financing public schools because of orders handed down by the courts. States and localities spend the greatest amount of their budgets—approximately 40 percent—for education.

These problems are serious, but there is no coordinated effort from the Federal level to help localities. While a Department of Education in and of itself could not solve education's tremendous problems, its primary purpose will be to supplement the States' and localities' efforts to deal with these problems.

A Federal Department of Education should *not directly* improve American education. It is not intended to do so, because that is really the province and duty of the States and localities. However, the Committee believes better organization and management of Federal education programs will better assist States and localities to improve education for students. In the long run, the level of confidence might rise and parents will take a more active role in helping their local school districts fulfill their job.

The Committee believes the Department of Education will have a positive, beneficial, *indirect* effect on improving American education and assisting parents and educators in the drive for educational improvement.

A LEGITIMATE FEDERAL ROLE

The Federal government has been involved in education for more than a century. It has reacted responsibly in meeting needs when States, localities, and private institutions had difficulty meeting them. The obvious examples are the passage of the Elementary and Secondary Education Act and the National Defense Education Act. In all cases, Congress has been careful to stick to the Constitutionally-backed principle that the Federal role is limited to supplementing, not supplanting, State and local prerogatives and rights in determining their individual educatonal program.

The Federal role in education, therefore, is a legitimate but restrained one. Today, there are important Federal policies and programs to aid education in the United States. They include:

Guaranteeing equal access to educational opportunities;

Conducting and disseminating comprehensive research into new ideas, trends, or problems in education;

Providing assistance to States and localities for educating the handicapped or disadvantaged;

Providing valuable complementary financial assistance to States and localities so as to insure the people are receiving a quality education; and

Maintaining significant higher education loan and grant programs to open doors for all students desiring to continue their education beyond public school.

This role has grown from the $400 million budgeted for the U.S. Office of Education in 1953 when HEW was created, to more than $25 billion today, scattered about 40 different Federal agencies. The budget of the Education Division of HEW—which will make up the core of the new Department—alone exceeds $13 billion, which is more than the budgets of five existing Cabinet departments (State, Justice, Commerce, Interior, and Energy).

The Federal activity in supporting education is of such a sufficiently large magnitude and size as to justify independent Cabinet status. Its activities are given strong popular support by the American public. It is too important to be mismanaged or denigrated within the Federal government structure.

ENSURING STATE AND LOCAL CONTROL

The Committee believes the establishment of the Department of Education will not adversely affect or diminish State, local, and private control of education in the United States. In fact, the Department is needed to insure that the Federal government remains a partner in the educational process, and that it does not supplant State and local rights in education.

From the birth of the United States through today, responsibility for education has rested primarily in the hands of State and local governments, public and nonpublic institutions. State and local control is institutionalized in this country. It is the key to the outstanding success of the American educational system, as compared with other industrial nations where education is centralized in national ministries. Local control is deeply imbedded in the fabric of American society, and cannot be changed through the simple act of giving education Cabinet status at the Federal level. At least 38 per cent of the budgets of State and local governments is spent for public education.

In its study of the operation of Federal education programs, the Committee has found an elaborate system of checks and balances to resist Federal encroachment in education. Continuously, education and State and local interests check and monitor proposed and existing rules, regulations, and data requirements. But, as programs continue to fragment and operate without direction or coordination, they threaten to destroy this delicate system of checks and balances. Educators, parents, and State and local governments cannot pinpoint the responsible Federal officials, and much accountability is lost. The end result will inevitably be more Federal encroachment. These educators, parents, and State and local governments will find a Department of Education more accountable, and more responsive to their needs .These checks and balances will operate more effectively if there is one, visible, and readily identifiable education position—the Secretaryship of Education. This community of people concerned about Federal education services will interact with one Cabinet secretary, instead of several lower-level officials as is now the case.

The Committee also senses a hidden danger in continuing to administer education programs side-by-side with health and welfare programs. Responsibility for health and welfare in the U.S. today rests primarily with the Federal government. HEW today accounts for most of the money spent by government for health and welfare services, such as Social Security, Medicare, Medicaid, Aid to Families with Dependent Children. and possibly in the near future, national health insurance. So the HEW administration faces conflicting mandates. Responsibilities in health and welfare are primarily national in scope and character, whereas those for education are primarily local. Given HEW's central role, there will inevitably be strong temptations within the Office of the Secretary—which makes most decisions for all of HEW—to impose a harder, or stiffer requirement on some education programs, instead of exhibiting more sensitivity towards the central role played by local educators. Representatives of State and local governments, education interests, and other public and nonpublic educational institutions often brand this mindset as the "HEW mentality." As health and welfare programs continue to expand dramatically—to more than half of the entire Federal budget within five years—and as the proportion of HEW's budget for education continues of necessity to rapidly decline, the national focus of HEW can only intensify.

In contrast to the Secretary of HEW, the Secretary of Education's one and only field—education—is not controlled or even primarily supported by the Federal government. The Secretary of Education will be forced to devote more attention to the real needs and problems of States and localities in education, for his constituents will hold most of the control and dollars in education. A new partnership will have to develop, and it will be one which recognizes that the Federal role is limited to supplementing and complementing local education.

Recognizing the importance of retaining local control of education in the United States, the Committee has written strong language in the legislation to protect the rights of States, their local school systems, and other instrumentalities of the States, public and nonpublic educational institutions to determine their own educational programs and policies.

Further, the Committee believes the Intergovernmental Advisory Council on Education created by the legislation will aid greatly in acting as still another outside check on the Department of Education for its sensitivity towards local control. The Council, made up primarily of State and local government and education representatives, will be an important voice in insuring the gains made through the establishment of the department for improving the efficiency of the Federal role and reducing Federal burdens are preserved and continued even further. Its power to review existing and proposed rules and regulations is particularly valuable in insuring State and local control of education.

BALANCED EDUCATION INTERESTS

The Committee has been careful, in the establishment of the Department of Education, to balance all educational interests and prevent domination by one over another.

In the new department, the assistant secretaries, Inspector General, General Counsel and Director of the Office for Civil Rights will all be on an equal footing with each other. Each position will be accorded the status of Executive Level IV.

In the present HEW set-up, there is little balance and much inconsistency. Offices serving elementary/secondary and higher education interests, for example, are scattered about the Office of Education. Most research offices are found at higher levels in the Education Division, mainly the office of the Assistant Secretary for Education. In all cases, some offices report to the Commissioner, at the lowest level, and some report to the Assistant Secretary, at a higher level.

S. 210 eliminates this confusion. No one interest will be able to dominate over another because their principal officers will all be equal in stature, and all will report to the single, top official—the Secretary of Education.

Further, the Committee notes that in terms of budget, elementary and secondary education will be roughly on a par with higher education. Each office will have about $5.5 billion in budget authority.

The Department of Education will serve all aspects of education, from elementary/secondary education, to higher and continuing education, to occupational, adult, and community education, to education of the handicapped, and to research of all areas of education. Thus the new Department will represent the entire spectrum of education.

BETTER INTERAGENCY COORDINATION

The Committee has made an effort to consolidate as many Federal education programs in the Department of Education as is practical and feasible at this time. The legislation as reported will consolidate 170 education programs.

However, interagency coordination of Federal education programs will be an important task of the new department and the Secretary of Education. The Committee believes better coordination will result through this reorganization.

Several education programs will remain with their parent agencies primarily because their basic mission, at this point in time, is tied more closely to that of the present agency than that of the new department. For example, the veterans education programs appear to be part of a comprehensive veterans service agency. The CETA program today is related more to public service employment than to education, although it does have educational components. Yet coordination between programs of the Department of Education and programs such as these will be vitally important if we are to get the most of our education dollar.

One important value of coordination is found in different agencies working together to share information and data so that duplicative reporting requirements could be eliminated.

Still another benefit from better coordination lies in the joint review by different agencies of requirements imposed by their rules and regulations on States, localities, and public and nonpublic institutions. Conflicting mandates could be eliminated and changed.

But to date, the many attempts at meaningful, successful coordination of Federal education programs have, for the most part, failed. The principal reason is that there is no one, high-level Federal official to take the lead role in coordination. The HEW Secretary has virtually no time to devote to meetings and conversations with fellow Cabinet officers for coordination of education programs. His or her hands are tied with health and welfare coordination. The Assistant Secretary for Education has attempted to make coordination work as the chair of the Federal Interagency Committee on Education, which is now authorized by executive order. But because of FICE's low status, only low-level bureaucrats represent the different agencies, and have little authority to make necessary changes and adjustments.

The best coordinating committee in the Federal government is the Cabinet. Cabinet secretaries regularly coordinate with one another because of their stature. They are on an equal par with one another in the Federal hierarchy. The two top education officials—the Assistant Secretary and the Commissioner—operate far below this high-level decision-making system and are not able to interact with Cabinet secretaries of other departments. In contrast, a Secretary of Education would become an equal partner in the nation's Cabinet, and would be in a far superior position to coordinate his programs with those of other secretaries. In addition, the President is often responsible for spurring coordination, done mainly through the Cabinet. But since the President does not have any contact with education officials, who, of course, do not sit at the Cabinet table, coordination of education programs is never considered. President Carter has often remarked that he has never heard education matters discussed at one of his Cabinet meetings.

Put simply, coordination fails when it is dropped in the hands of Federal officials below the policy-making level. The new Secretary of Education will be assigned the lead Federal role for coordinating education programs both within the Education Department, and with those of other Federal agencies. The legislation places coordination as one of the highest priorities in establishing the Department of Education. It specifically authorizes, by law, the Federal Interagency Committee on Education, and specifies that its members shall be from the policy level and the chairman shall be the Cabinet Secretary of Education. The Committee believes this will upgrade the effectiveness of coordination in the Federal government.

ALTERNATIVES

In studying Department of Education legislation, the Committee examined a number of alternatives to the establishment of a separate Cabinet department, none of which proved feasible or as beneficial and workable.

The Committee found widespread agreement that there are indeed serious management problems within both HEW and within the Education Division of HEW. But many disagree whether leaving education within HEW and reorganize that department internally or separating education completely would be the best course to follow.

Those who want education left within HEW argue in favor of the Department of Defense "subcabinet" model, where there would be subcabinet "secretaries" for health, for education, and for welfare under the HEW Secretary, or a Secretary of Human Resources. In DOD there is a Secretary of Defense, a Deputy Secretary, the office of the Secretary, and three subcabinet secretaries, for the Army, the Air Force, and the Navy.

The Committee believes there would be little improvement, if any, in reorganizing HEW by this model as opposed to establishing a separate Education Department. Perhaps the best explanation of the faults of such an arrangement was contained in a letter to the Vice President by Senators Magnuson, Ribicoff, and Pell in 1977:

> Patterning HEW after the DOD subcabinet model would be little more than a simple facelift, and in the end, do much harm to the overall Federal education effort. Such a reorganization would drastically increase and centralize the HEW Secretary's powers and duties. A Secretary of Education within HEW would only serve as an Administrator—not a policymaker.
>
> The education functions could even be further buried in unnecessary layers of bureaucracy. If the present Department of Defense organization is any indication of what we could expect, the Education "subsecretary" would probably be rele-

> gated to a lower position within HEW, under as many as nine assistant secretaries and a deputy secretary in the Office of the Secretary.
>
> Furthermore, the Education Division's budget would continue to be outnumbered, 18 to 1, by HEW's massive health and welfare program expenditures. The HEW Secretary, out of necessity, would continue to be preoccupied with pressing health and welfare concerns. Education would take a back seat, as it has always taken.

The Committee has found little reason to adminster education programs with those of health and welfare. The missions and focuses of the two differ significantly and they infrequently interact or coordinate with each other. The Committee has concluded that education should be removed from HEW.

Another alternative discussed on the floor of the Senate during debate on the bill (S. 991—95th Congress) to establish the Department of Education was to give education independent agency status, instead of Cabinet status. The Committee and the Senate rejected this proposal as inconsistent with the goal of elevating the status of education in the Federal government. Throughout the last 20 years, there has been a rise in the number of independent agencies. Today, there are 75 of them in operation. The important distinction is that education is basic to their work and the work of the 12 Cabinet departments. It is a function that cuts across all the others, and therefore deserves Cabinet rank. The biggest disadvantage of the independent agency model is that the head of the agency would not have enough stature, clout, and visibility to be the lead spokesperson for education in the Federal government. That official would also not be in a position to effectively coordinate scattered Federal education programs.

The Committee has given the Department of Education concept more than two years of careful examination and thorough study. It believes education deserves Cabinet rank, and will benefit greatly by becoming the Nation's 13th Cabinet department.

HISTORY OF THE LEGISLATION

Efforts to create a Cabinet-level Department of Education in the Federal Government have been ongoing, often sporadically, for the past 125 years.

In March 1867, Congress created a non-Cabinet Department of Education, primarily to collect statistics and other relevant data on the condition of American education. Unfortunately, this non-Cabinet agency never really got off the ground. Its budget was less than $15,000. It had less than 10 clerks and existed for only slightly more than 1 year. The Department was subsequently given bureau status and placed within the Department of the Interior for the next 70 years.

In 1939, the U.S. Office of Education was transferred from the Interior Department to the new Federal Security Agency created by President Franklin Roosevelt.

The Office of Education has remained in the Department of Health Education, and Welfare since its creation in 1953 under the Eisenhower administration.

From 1908 through 1951, more than 50 pieces of legislation to establish a separate, Cabinet-level Department of Education were introduced in Congress. In that time period, nearly 20 days of hearings were held on several bills, and at least six were actually reported to either the House or the Senate floor for final consideration. No action, however, was ever taken beyond the committee stage.

Yet, education advocates gave much effort and consideration in the first half of the 20th century to the creation of a separate Education Department. As far back as February 1910, then U.S. Commissioner of Education Elmor Brown, in testimony before a congressional committee on the issue, predicted:

> A time will be reached when the erection of such a department of the Government as this measure contemplates will be necessary to good administration.

In a December 1923 message to Congress, President Calvin Coolidge gave his support to the concept of the separate Department:

> Having in mind that education is peculiarly a local problem, and that it should always be pursued with the largest freedom of choice by students and parents, nevertheless, the Federal Government might well give the benefit of its counsel encouragment more freely in this direction. I do consider it a fundamental requirement of national activity which is worthy of a separate department and a place in the Cabinet.

And in 1931, the National Advisory Committee on Education recommended the creation of a Cabinet Department of Education:

> No bureau chief or head of a detached or independent establishment can give the equal access to the Chief Executive and that equality of approach to the heads of all departments concerned essential the effective total operation of education of education in government. The presence in the government of an officer of cabinet rank would insure that effective contribution of education which is essential to the future political and social welfare of the nation.

The Federal effort in education continued to grow dramatically after the creation of HEW in 1953. The budget for the Office of Education jumped from approximately $400 million then, to $4 billion during President Johnson's Great Society initiatives, to more than $10 billion today.

And as the Federal effort increased, so did calls in Congress for the creation of an Education Department separate from HEW. From 1953 to the present, more than 80 pieces of legislation were introduced in Congress and a large number of authoritative studies were conducted.

Under the Johnson administration, three separate task forces seriously studied the concept of a Cabinet Department of Education. The 1964 Task Force on Government Reorganization favored an Education Department:

> Because the schools have been afraid of Federal domination, the Government has never had a comprehensive policy for the advancement of education and research. But it is unrealistic to think we can protect the freedom of education by pretending to ignore it.

Also in 1964, a study team headed by then HEW Secretary John Gardner was split between creating an independent Office of Education at the Presidential level and creating a Cabinet department. Still another group, the Heineman task force, concluded in 1967 that a Department of Education was not necessary at that time.

Much attention was focused on the introduction of S. 100 (the Department of Education Act) in January 1965 by Senator Ribicoff. A former Secretary of Health, Education, and Welfare, Senator Ribicoff said a Department of Education was necessary because education was not receiving the attention it deserved in the burgeoning and increasingly unmanageable HEW Department. The Ribicoff bill has been reintroduced in every Congress since then.

The 1970's brought a renewed interest in the establishment of a Cabinet-level Department of Education. In the 1972 Presidential campaign, the Democratic candidate, Senator George McGovern, announced his support for giving education Cabinet status. In 1976, the Ford Foundation and the American Council on Education sponsored a landmark study on the issue, authored by Rufus Miles, Jr., formerly HEW director of administration throughout the 1960's. The Miles study gave strong backing to the creation of a Department of Education.

President Carter, throughout his 1976 campaign for the Presidency, pledged that in his proposed reorganization of the Federal Government, he would create a Department of Education.

In March 1977, Senator Ribicoff again introduced his legislation. This time, however, more than half of the members of the U.S. Senate joined him in cosponsoring the bill, S. 991. In the U.S. House of Representatives, nearly 30 different pieces of legislation to create a separate Department were also introduced in the 95th Congress.

Upon taking office, President Carter set up the President's reorganization project to study the Federal Government structure and recommend reorganization proposals. The project's education study team began work in April 1977. In late November 1977, they presented to the President for his review three options: (1) The creation of a Department of Education; (2) the creation of a Department of Education and Human Development; and (3) an uplifting of the status of the Education Division within HEW. The President decided in favor of the establishment of an Education Department, and announced his decision in his state of the Union Address in January 1978.

Meanwhile, the Committee on Governmental Affairs opened the first congressional hearings on Department of Education legislation in nearly 25 years. On October 12 and 13, 1977, prominent academic authorities, major national education organizations, and six former U.S. Commissioners of Education testified on the need for the Department.

The committee devoted 10 days of hearings to S. 991 and heard testimony from more than 100 witnesses. Committee markups on S. 991 were held July 11, 14 and 18, 1978. S. 991, the Department of Education Organization Act, was unanimously ordered reported by the Committee for full Senate consideration.

The House Committee on Government Operations gave much consideration to a Department of Education bill, H.R. 13343, introduced by Committee Chairman Rep. Jack Brooks, of Texas, on June 29, 1978.

Its Subcommittee on Legislation and National Security held five days of hearings on the bill (July 17, 20, 31, and August 1 and 2), and reported a clean bill, H.R. 13778, to the full Committee on August 8. By a vote of 27–15, the full Government Operations Committee ordered H.R. 13778 reported for full House consideration on August 15. The bill was granted an open rule and a two-hour general debate limitation by the House Rules Committee on September 14, 1978.

The following week, the Senate began nearly 10 hours of debate on S. 991, running over three separate days—September 19, 20, and 28. After four roll call votes, the Senate passed S. 991 on September 28, 1978, by a vote of 72–11.

The House bill, however, continued to be on the calendar, awaiting floor action. But in the end-of-session legislative logjam, the House bill could not be scheduled for full House floor consideration.

A week later, both President Carter and Vice President Mondale, along with House and Senate sponsors, pledged to renew their efforts to establish a Department of Education in the 96th Congress.

Senator Ribicoff introduced S. 210, on January 24, 1979. The Governmental Affairs Committee held three days of hearings, February 6–8, and ordered the bill reported March 14.

President Carter sent a special message to Congress on February 13, 1979, transmitting his proposed legislation to establish a Department of Education. On behalf of the Administration, Rep. Brooks introduced H.R. 2444 on February 27, and Senator Ribicoff introduced S. 510, the companion bill, on March 1.

SUMMARY OF THE LEGISLATION

PROGRAMS TRANSFERRED

Program	Fiscal year 1979 budget [1]	Staff [1]
From HEW:		
The entire Education Division	$12,720,199,000	4,168
Office for Civil Rights	69,427,000	1,000
Grants to special institutions: Howard University, Gallaudet College, American Printing House for the Blind, National Technical Institute for Deaf	178,757,000	1
Health professions student loans	10,000,000	10
Nursing loans and scholarships	31,500,000	30
Telecommunications demonstration program	1,000,000	1
Vocational rehabilitation programs	870,200,000	445
The graduate school, USDA	(2)	(2)
Certain science education programs, National Science Foundation	58,700,000	90
Overseas dependents schools, Department of Defense	361,000,000	9,658
College housing loans program, HUD	(3)	3
Migrant education, Labor Department	6,500,000	2
Law enforcement education, Justice Department	25,250,000	8
Total	14,332,533,000	15,416

[1] These figures are estimates only.
[2] U.S. Government contributes no funds or staff.
[3] Revolving fund.

TITLE I

Title I states the purposes for creating the Department of Education and the congressional findings. Some of the findings are:

Education is fundamental to the growth and achievement of the nation; there is a continual need to ensure equal access to education for all Americans; the primary responsibility for education is that of

State, local and tribal governments, public and nonpublic institutions, communities, and families; the primary public responsibility for educaton is reserved respectively to the States, the local school systems and other instrumentalities of the States, and tribal governments; the dispersion of Federal education programs had led to fragmentation, duplication and inconsistent Federal education policies; State, local and tribal governments and public and nonpublic education institutions face problems as a result of a lack of coordination of education programs at the Federal level; the present organizational position of education at the Federal level hinders presidential and public focus on education issues; the importance of education is increasing due to the complexities of our society and the need to provide equal opportunities for citizens.

Some of the purposes of the Department are:

To enable education to receive appropriate emphasis at the Federal level; to continue and strengthen the Federal commitment to equal educational opportunity; to supplement and complement State, local school systems and other instrumentalities of the States and tribal governments, the private sector, public and nonpublic institutions, including educational research institutions, community organizations, parents and students to improve educational utility and quality; to encourage parental and community involvement; to encourage the increased involvement of parents, students and the community in education; to enable the Federal government to coordinate education activities more effectively; to assist in the support of basic and applied educational research; to supplement and complete States, local, tribal, public and non-public agencies by providing support for their articulated needs, especially with respect to simplification of procedures for the dispersal of funds and the reduction of unnecessary and duplicative burdens.

The bill further states the establishment of the Department of Education shall not increase the authority of the Federal government over education or diminish the responsibility for education which is reserved to the States, the local school systems, and other instrumentalities of the States, and tribal governments. It states the intention of Congress in establishing the Department is to protect the rights of State, local and tribal governments and public and nonpublic educational institutions in the areas of educational policies, administration of programs, competency testing, and selection of curricula and program content as well as to strengthen and improve the control of such governments' and institutions' direction over their own educational programs and policies.

The Act does not require any particular organization at the State level of any programs transferred to the Department.

TITLE II

Title II establishes the Department. It creates the following offices and officers to perform respective functions. It provides for a Secretary (Level I) and an Under Secretary (Level III). In order to assure an intergovernmental perspective in the Department's overall activities the Under Secretary is assigned intergovernmental functions in addition to other duties. Title II also provide for the following offices which are headed and administered by Assistant Secretaries carrying the same titles: Office of Elementary and Secondary Education; Office of Postsecondary Education; Office of Special Education and Rehabilitative Services; Office of Occupational, Community and Adult Education; Office of Educational Research and Improvement.

There is also established in this section an Office for Civil Rights, to be administered by a Director (appointed by the President with the advice and consent of the Senate), an Office of Education for Overseas Dependent Children, to be administered by an Administrator, and two additional officers (one executive level IV Assistant Secretary position and one level V position) to perform staff functions. These functions would include: Public information; planning, evaluation, and policy development; congressional relations; administration and management; and public, parent, and student involvement. The staff functions to be performed by the one additional level IV officer would be planning, evaluation, and policy functions in addition to any other duties the Secretary may assign.

Each Assistant Secretary and the Director of the Office for Civil Rights would be compensated at the rate provided for executive level IV. The Administrator of the Office of Education for Overseas Dependents and the additional officer who is not an assistant secretary would be compensated at the rate provided for executive level V.

This title also provides for an Inspector General and a General Counsel. Each of these officers would be executive level IV's.

The Director of the Office for Civil Rights would be required to submit an annual report to the President, the Secretary, and the Congress on the Office's enforcement and compliance activities with respect to the civil rights laws relating to education.

The functions of the Department specified in Title II include chief duties of the principal officers as well as public information, congressional relations, planning and evaluation, administration and management, and monitoring parental and public prticipation.

This title also provides for the establishment of an Intergovernmental Advisory Council. The purpose of the Council is to make recommendations concerning intergovernmental policies and relations relating to education. The Council consists of 25 members, including representatives of the general public, school officials and State, local and tribal governments. The Undersecretary would serve as an ex officio member of the Council. It would provide a forum for the development of intergovernmental policies and relations relating to education; make recommendations for the improvement of the administration and operation of Federal education programs and education-related programs; promote better intergovernmental relations; and assess Federal policies and make recommendations to ensure effective direction over educational policymaking and program implementation, by State, local, and tribal governments and public and nonpublic educational institutions. In addition, the Council would have discretionary authority to review existing and proposed rules or regulations of the Department and to recommend changes to make them more responsive to the needs and concerns of State, local and tribal governments, and public and nonpublic educational institutions.

The Council would be composed of 24 the undersecretary and members to be appointed by the President. In making appointments, the

President would consult with a wide variety of groups representing State and local, public interest and education groups and associations.

Lastly, this title elevates the existing Federal Interagency Committee on Education by giving it statutory authority and providing that the Secretary will be the chair. The purpose of FICE is to assist in the coordination of the procedures and actions of the Department and other Federal departments and agencies. It would consist of 17 members representing various agencies having educational interests.

TITLE III

This title provides for the transfer of agencies and functions. It transfers the following: All programs of the Education Division, the Office of the Assistant Secretary for Education, the Institute of Museum Services, the Office of Information and Resources for Handicapped Individuals, the Rehabilitation Services Administration (except for the developmental disabilities programs), the National Institute of Handicapped Research, the Interagency Committee on Handicapped Research, the Helen Keller Center for Deaf-Blind Youth and Adults and the National Council on the Handicapped. Also transferred are HEW's education functions for the Office for Civil Rights, for education advisory committees, the telecommunications-demonstrations grants, HEW's responsibilities for Gallaudet College, Howard University, the American Printing House for the Blind and the National Technical Institute for the Deaf, and the student loans for nurse training.

Transfers from other agencies include: Department of Defense's operation of overseas schools for dependents; National Science Foundation's science education programs, including programs for undergraduate instructional improvement, assistance and research in science education; Department of Justice's law enforcement student loans and grants; the Department of Housing and Urban Development's college housing program; the Department of Labor's migrant education program; and the Advisory Council on Education Statistics.

TITLE IV

This title contains the personnel provisions and general administrative authorities for the Secretary.

It provides for the appointment of personnel to the Department. it authorizes technical and professional employees for the Office of Educational Research and Improvement; 15 transitional employees; and a total of 63 positions at GS–16, 17 and 18. Of these, 42 new positions are authorized and 21 are continued.

Additionally, it provides for experts and consultants; provides for Congress to authorize an end strength for personnel for the Department; provides for authority of the Secretary to exercise the functions of the agencies and offices within the Department; and provides the Secretary authority to delegate functions to officers of the Department.

The bill prohibits reorganization of any structural entities established by statute within the Department. However, some flexibility is allowed for offices if procedures, which include specified notice requirements to appropriate congressional committees, are followed.

It redesignates reporting requirements to the Secretary which were required previously to the Commissioner of Education or the Assistant Secretary for Education. Subsequently, the Secretary is authorized to redelegate the reporting requirements to appropriate officers or employees within the Department.

Other provisions in this title authorize the Secretary to prescribe rules and regulations for the Department; to enter into contracts, grants, leases, cooperative agreements or other similar transactions with officials of Federal, public and private agencies; to provide technical assistance, advice and counsel to interested persons with respect to the Department's programs or functions; to establish, maintain, alter or discontinue regional or field offices; to maintain and acquire property; to provide for facilities at remote locations for employees and dependents of the Department; to use services and facilities of governmental agencies or instrumentalities with or without reimbursement; to acquire copyrights, patents or licenses, etc., if necessary; to accept gifts and bequests for the purpose of facilitating the work of the Department; and to establish a working capital fund.

In addition, the bill allows for the transfer of funds from one appropriation to another within the Department, but not to exceed 5% of the amount appropriated. It provides for a Seal of Office for the Department.

It also requires the Secretary to issue an annual report which includes an assessment of the plans for the Department. The report shall include a discussion of the effective management and coordination of functions of the Department as well as the recommendations concerning reduction of burdensome regulations and unnecessary duplication.

Finally, the title provides for the transfer of authorities under the General Education Provisions Act to the Department and authorizes sums to be appropriated for the Department.

TITLE V

Title V contains the transitional, savings and conforming provisions for the Department. Its main provisions are as follows:

Transfer and allocations of personnel and funds;

Effect on personnel. Maintains transferred employees in their present grade and compensation for one year;

Termination of operation of law of any existing office or agency all of whose functions are transferred;

Authorization of Director of Office of Management and Budget to make determinations of incidental transfers of people and funds relating to transferred programs;

Continuation of existing orders, proceedings, etc., made before the transfers by parent agencies until modified by the Secretary or the President;

Separability. (Preserves remainder of Act if any person or circumstance is held invalid);

Reference. (Ensures any other references which are applicable to the functions of the new Department refer to the Secretary or the Department);

Amendments to Defense Dependents' Education Act, including revision of membership of Advisory Council on Dependent's Education to broaden its representation to include parents and teachers;

Redesignation of HEW as Department of Health and Human Services.

TITLE VI

Title VI provides for the effective date of the Department and interim appointments. It provides for the effective date of the Department as 180 days after the Secretary takes the oath of office and allows for appointment of the principal officers and promulgation of regulations before the effective date.

SUMMARY OF HEARINGS

The Committee's consideration of legislation to create the Department of Education has spanned a two-year period, and has involved 13 days of hearings and testimony from more than 130 witnesses.

In the 95th Congress, the Committee conducted 10 days of hearings and heard testimony from more than 100 witnesses. Out of these 10 days, four were devoted to the general concept of a Department of Education and the remainder concerned the individual programs under consideration for transfer to the new department.

In the 96th Congress, the Committee conducted three days of hearings—February 6, 7, and 8, 1979. The 25 persons who testified discussed the general concept of the department, ways to insure continuing State and local control of education and improving intergovernmental relations, civil rights enforcement, the transfer of vocational rehabilitation programs, and the department's relationship to higher education and nonpublic education.

February 6: The lead-off witness was the Reverend Jesse Jackson, president of Operation PUSH (People United to Save Humanity). Rev. Jackson supported the department as a vehicle for underlining the importance of education in the United States, and for ensuring equal educational opportunity for all Americans.

Representatives of State and local organizations made up the second panel of witnesses. All made recommendations for improving the language of the legislation to protect State and local control of education. The National Governors Association, Education Commission of the States, National Conference of State Legislatures, and Chief State School Officers Council recommended that responsibility for intergovernmental relations be assigned to a high level officer in the department, preferably the Undersecretary of Education. The State and local groups also made several recommendations concerning the language of that section of the bill establishing the Intergovernmental Advisory Council on Education.

From the third panel, the Committee heard testimony in support of the Department of Education from State and local officials and black educators.

February 7: Senator Robert Morgan appeared before the Committee in opposition to S. 210. The Senator opposed the department in part because of possible domination by education organizations and of fear that it would lead to a national policy in education.

The second panel was made up of three organizations representing handicapped people and supporting the transfer of vocational rehabilitation programs to the new department. These individuals felt there would be increased coordination and cooperation between handicapped education and training programs of the Bureau of Education for the Handicapped in the U.S. Office of Education, and the Rehabilitation Services Administration in HEW, when consolidated together.

Of the three higher education organizations represented in panel three, two came before the Committee in support of the Education Department and of that provision of the legislation elevating the principal higher education official to assistant secretary rank. The Association of American Universities, however, preferred an internal reorganization of HEW rather than the creation of a separate department.

The last witness, Msgr. Paradis of the U.S. Catholic Conference, opposed the Department of Education because in part of the fear it would mean an enlarged Federal role in education, thereby possibly harming the pluralism of American education. Al Vandenbosch, Chairman of the Illinois Advisory Committee on Nonpublic Schools, told the Committee of his concern that the new department would not give adequate attention to the needs of private education.

February 8: Six members of the Administration testified in support of the Education Department. OMB Director McIntyre reiterated the President's commitment to the establishment of the Department. He suggested that the Senate bill contain: A prohibition against Federal control of education, more flexibility for the Secretary of Education in structuring the new Department, and the transfer of the migrant education program from the Department of Labor. Assistant Secretary for Education Mary Berry supported the Department because it would streamline the bureaucracy and provide a new emphasis on interagency coordination. U.S. Commissioner of Education Ernest Boyer said the new Department would improve administration of education programs, the quality of the staff, and make the bureaucracy more responsive and accountable. National Institute of Education Director, Patricia Albjerg Graham, said a Department of Education would consolidate widely-scattered educational research functions into a single office and under a single assistant secretary, thereby resulting in more efficient and targeted uses of research for use by States and locatities.

WITNESS LIST

February 6, 1979

Panel I

The Reverend Jesse Jackson, President, Operation PUSH (People United To Save Humanity).

Panel II

Henrik Dullea, Assistant Secretary to Governor Hugh Carey for Education and the Arts, representing the National Governors Association and the Education Commission of the States;

Joanne Goldsmith, member, Maryland State Board of Education, representing National Association of State Boards of Education;

Lucille Maurer, Delegate, State of Maryland Assembly, representing the National Conference of State Legislatures;

Linda Albert, President, New Jersey School Boards Association, representing National School Boards Association; and

A. Craig Philiips, North Carolina State Superintendent of Public Instruction, and President, Council of Chief State School Officers.

Panel III

The Honorable Richard Fulton, Mayor, Nashville, Tennessee;

The Honorable Frank Lewis, Chairman, Executive Board, Nebraska State Legislature:

Ralph Steffek, Treasurer, National Association of Administrators of State and Federal Education Programs, acompanied by Betty A. Colden, President, Michigan Association of State and Federal Program Specialists; and

Rex Fortune, Chairman, Committee on Legislation, National Alliance of Black School Educators.

February 7, 1979

Panel I

The Honorable Robert Morgan, U.S. Senator, North Carolina.

Panel II

Frank Bowe, Director, American Coalition of Citizens with Disabilities;

Fred Weintraub, Assistant Executive Director for Governmental Relations, the Council for Exceptional Children; and

Elizabeth H. Anderson, President, National Rehabilitation Association.

Panel III

J. T. Sandefur, President, American Association of Colleges of Teacher Education;

Thomas A. Bartlett, President, Association of American Universities; and

Charles A. Lyons, Jr., Chancellor, Fayetteville (N.C.) State University, and President, National Association for Equal Opportunity in Higher Education.

Panel IV

Monsignor Wilfrid H. Paradis, Secretary for Education, U.S. Catholic Conference.

February 8, 1979

The Honorable James T. McIntyre, Jr., Director, Office of Management and Budget, accompanied by Harrison Wellford, Executive Associate Director for Reorganization and Management, and Patricia Gwaltney, Deputy Associate Director for Human Resources Organization;

The Honorable Mary F. Berry, Assistant Secretary of HEW for Education;

The Honorable Ernest Boyer, U.S. Commissioner of Education; and

Dr. Patricia Albierg Graham, Director, National Institute of Education.

AREAS OF DISCUSSION

STATE AND LOCAL RESPONSIBILITIES FOR EDUCATION

The Committee carefully considered the question of whether the Department means Federal interference in or dominance of State and local policymaking. States and their political subdivisions have the constitutional right to determine their own education needs and policies. The bill reinforces this principle.

Amendments introduced last year by Senators Roth and Danforth addressed this concern. These amendments are contained in the present bill and have been further refined. Hearings held by the Committee this year focused particularly on the question of the effect of the establishment of the Department on education decisionmaking at the State and local level and on whether the establishment of the Department would mean more Federal control. Various groups testifying before the Committee specifically directed their comments to this area. Organizations testifying included the National Conference of State Legislatures, the National School Boards Association, the National Governor's Association, the Council of Chief State School Officers, the National Association of State Boards of Education, and the Education Commission of the States.

James McIntyre, Director of the Office of Management and Budget, commented that the Department would not change the Federal government's role in education. There has long been a tradition in the United States for local control of education. S. 210 recognizes this principle and recognizes that the Department's responsibility is to enforce existing laws and administer existing programs more effectively.

The creation of a Department of Education is supported by State and local groups who say they fear more Federal intrusion will be caused by the existing fragmented, uncoordinated, unaccountable, and low-level bureaucracy.

The hearings before the Committee highlighted this view that the establishment of the Department would, in effect, be a check on Federal encroachment. Mr. McIntyre stated:

> * * * with the establishment of such a Department and making the Secretary or the educational programs more accountable, along with the greater visibility * * * there would be greater and public debate about any type of either perceived or proposed changes in (the) Federal role.

Commissioner Boyer commented further:

> My best judgment is that in fact (the Department) will help protect against (encroachment). What I see now are decisions that are going on every day * * * regulations are being written * * * The lack of clarity and structure, the lack of clear and fixed accountability I think lead to the prospect of more entanglements and not less.

S. 210 underlines the unique relationship of the Federal government with States and localities in the area of education. The findings and purposes state clearly the intent of the Department with respect to the responsibilities of governmental entities and public and nonpublic agencies. The bill recognizes the primary responsibility for education has in the past, and must continue in the future, to reside with States, localities, public and nonpublic educational institutions, communities and families. It distinguishes responsibilities in our Federal system by stating the primary public responsibility for education is reserved respectively to the States, the local school systems and other instrumentalities of the States, and tribal governments. It recognizes that one of the chief purposes of the Department is to supplement and complement the efforts of States and localities and public and nonpublic institutions to improve the quality of education.

Section 103 of the bill specifically addresses the Committee's intention with respect to the establishment of the Department and the role of the Department with respect to State and local administration of education programs and policies. The Committee accepted an amendment introduced by Senator Roth which explicitly states the establishment of the Department "shall not increase the authority of the Federal Government over education or diminish the responsibility for education which is reserved to the States, the local school systems and other instrumentalities of the States, and tribal governments." Section 103 further clarifies the intent of the Congress with respect to establishing the Department to protect the "rights of State, local and tribal governments and public and nonpublic educational institutions in the areas of educational policies and administration of programs, including but not limited to competency testing and selection of curricula and program content, and to strengthen and improve the control of such governments and institutions over their own educational programs and policies." Section 103 also ensures that the transfer of any programs to the Department does not require any particular organization of related programs or administrative networks at the state level.

Lucille Maurer, Chair of the Education Committee of the National Conference of State Legislatures, testified before the Committee on the importance for the Department to have a "strong institutional capacity to integrate its activities with education activities at the State and local level . . . it must be structured in a way that will guarantee day-to-day sensitivity to education policy-making . . . NCSL believes that this could be accomplished most effectively by charging the Under Secretary with responsibility for intergovernmental relations." Most State and local organizations agreed with this concept. The Committee responded to this suggestion by placing the responsibilities for the intergovernmental relations of the Department with the Under Secretary. The Committee has directed the Under Secretary to assure the Department carries out its functions in a manner which supplements and complements the education policies, programs and procedures of States and localities. The Under Secretary is also mandated to assure that appropriate officials within the Department consult with State and local education policy-makers concerning differences over education policies, programs and procedures and concerning the impact of the Department's rules and regulations on the States and localities.

S. 210 also includes an Intergovernmental Advisory Council on Education. The Council would act as a check on the Department of Education for the impact of its programs on States and localities.

The Council will advise the Secretary and the President on intergovernmental problems, progress, and concerns regarding education and intergovernmental relations.

Appointed to the Council by the President would be 24 nonpartisan representatives from State and local governments. State and local educational agencies, and private citizens, including citizens, students, and nonpublic institution representatives. The Under Secretary would also be a member.

The effectiveness of most Federal programs depends upon the delivery of the service of those programs at the State or local level where the Federal Government has limited authority. The widely-scattered education programs have caused confusion for State, local, and private agencies with respect to fragmentation and duplication at the Federal level. State agencies must deal with a myriad of agencies at the Federal level which often result in excessive amounts of paperwork requirements. The Council will provide a mechanism for involving those affected by the Department's policies to facilitate intergovernmental coordination.

The Council is not intended to be a buffer between the Secretary of Education and the President or Congress, nor is it expected to be involved in the day-to-day operations of the Department or in the annual budget process. Its role is advisory in helping the Department work toward the attainment of Federal, State, and local educational objectives. Its focus should be upon the long-term health of the intergovernmental system for managing education.

CITIZEN INVOLVEMENT

The Committee intends that citizen participation in the implementation of Federal education programs be a major function of the Department. S. 210 defines as one of the major functions of the Department "monitoring parental and public participation in programs where such participation is required by law, and encouraging the involvement of parents, students, and the public in the development and implementation of departmental programs."

Rev. Jesse Jackson's testimony before the Committee emphasized the necessity of parent, student and community involvement in the educational process:

> Presently education is too isolated from these elements and the result is obvious and devastating in numerous ways—from increased vandalism to lower academic achievement to the weakening of public financial support for public education * * * the recognition that parent, citizen and student involvement must play a major role and function in a new department for it to be successful and to rebuild the lost confidence in education is of vital importance.

In testimony before the committee last year, Dr. Carl Marburger, director of the National Committee for Citizens in Education, stated the importance of citizen participation for increasing confidence in schools and children's educational abilities. Lack of confidence in public schools is alarming. According to the National Center for Educational Statistics, the percentage of people with "hardly any confidence in people running education" has nearly doubled from 1973 to 1976. A

1976 Gallup survey found that 59 percent feel the quality of education is declining. Studies showing increasing declines in high school graduates' reading skills and SAT scores reinforce the lack of confidence in our schools. Even more alarming is that lack of confidence surfaced in the voting booth, where in 1975, 56 percent of all bond issues before the public were rejected.

Dr. Marburger cited the fact that educational research data demonstrates that when parents participate in school affairs their children do better in school. Also, when children observe their parents having an impact on the school, their self-image becomes more positive. Enhanced self-image has been linked to student achievement in many studies.

In sum, it appears that increased parent, student and citizen participation in the education process not only assists in increasing confidence in the schools, but also has an impact on the decline in student performance.

Already existing with respect to certain education laws are provisions for citizen participation, although there is no coherent policy governing the issue and no consistent enforcement of the provisions.

Student participation was also discussed in hearings before the Committee last year.

Lawrence Zaglaniczny, testifying for the Coalition of Independent College and University Students, and Joel Packer, legislative director of the National Student Lobby/National Student Association Coalition, suggested the need for a unit which would allow students to be consulted on decisions affecting them and to bring student ideas from across the Nation into the decisionmaking process of the Department.

S. 210 provides a mechanism where input can be provided from among citizens, including parents and students. As previously mentioned, one of the major functions of the Department will be to assess parental and public participation in the Department's programs.

The Committee suggests the Secretary establish an Office of Citizen, Parent and Student Concern to perform this public participation function. OMB Director McIntyre's testimony before the Committee supported such an office. This office could be the public's access point to the Department. It would be an effective means for ensuring citizen and parent participation in Federal educational programs and for rebuilding public confidence in education. If such an office were created, it would be responsible for monitoring the enforcement of parent and citizen participation provisions now in law and forming the public of opportunities to participate in educational policy determination. It could identify program authorities and funds that could or should be used to encourage parent involvement, and assess the effectiveness of parent involvement strategies.

Already existing within the Office of the Commissioner of Education are several offices of special concern (for example, offices for minorities, women, and the handicapped). These offices could be consolidated in this Office and benefit from the resulting coordination and increased visibility. A 1977 study by the Education Commission of the States concluded that Hispanics are consistently below their contemporaries in the rest of the Nation in reading, science, mathematics, social studies, and career development. A unit within this Office for Hispanic affairs could ensure that the Hispanic community is involved in matters of interest to it and could monitor and evaluate existing requirements to ensure that Hispanic participation occurs where the law warrants it.

Some of the specific functions this Office could perform would be the following:

(1) Analyze and assess programs administered by the Department to identify current parent, student, or citizen involvement responsibilities, and identify current materials technical assistance that can be used to increase their involvement;

(2) Assess, and report to the Secretary on the implementation of parent, student, or citizen involvement provisions in current law or proposed legislation, and make recommendations concerning the analysis and assessment of this involvement. The Office could be used by the Secretary as a vehicle for coordinating the numerous parent, student, or citizen appointments to departmental boards, commissions, or other panels;

(3) Provide assistance and consultative services to program staff in developing appropriate means for public involvement;

(4) Serve an ombudsman-type function by receiving and channeling for proper attention complaints, grievances, or other input from the public within the Department. This could make the Department aware of the needs of parents, students, and citizens and their involvement in the educational process;

(5) Serve as liaison with education advisory committees, the Federal Interagency Committee on Education, the Intergovernmental Advisory Council on Education, and the Under Secretary who has responsibility for intergovernmental affairs. Thus, stronger institutional community ties could be achieved by an effective mechanism responsible for achieving increased citizen involvement in the Department's programs and activities;

(6) Consult with various entities within the Department, such as the Office for Educational Research and Improvement, which are engaged in research or studies pertaining to parent, student, or citizen involvement in education; and

(7) Engage in the dissemination of valuable information on opportunities for parent, student, and citizen involvement in the Department's administration and policy development processes.

The Committee believes such an Office, if created, should be at a sufficiently high level in the Department to ensure its maximum usefulness and effect. Parent, student, and citizen involvement must cut across all functions of the Department for it to be successful and to build lost confidence in education.

OFFICE FOR CIVIL RIGHTS

A significant responsibility of the Department is to continue and improve the Federal commitment to insuring access by every individual to equal educational opportunities. S. 210 recognizes one of the purposes of the Department is to insure access by every individual to equal educational opportunities. The Department will assume responsibility for effectively carrying out the Nation's civil rights laws in education. Thus, the Secretary of Education will be accountable for the effective administration of existing civil rights laws.

S. 210 provides for the education components of HEW's Office for Civil Rights to be moved into the new Department. The education-related civil rights functions will be concerned with such provisions as title VI of the Civil Rights Act of 1964 (racial and ethnic discrimination); title IX of the Education Amendments of 1972 (sex discrimination); section 504 of the Rehabilitation Act of 1973 (discrimination against the physically and mentally handicapped), Education of all Handicapped Children Act (P.L. 94–142); and Executive Order 11246 (employment discrimination on the basis of race, color, religion, sex, national origin), subject to the restrictions on use of appropriated funds such as is contained in section 420 of the General Education Provisions Act and sections 207, 208, and 209 of the 1979 Labor-HEW Appropriations bill.

The transfer of HEW's education-related civil rights responsibilities provided for under S. 21 is fully consistent with a mandate first expressed in title VI of the Civil Rights Act of 1964 that all Federal agencies assure nondiscrimination in the programs they administer. In order to implement this mandate effectively, organizational arrangements within the new Department will include:

The establishment of an Office for Civil Rights, independent of the Department's programs, whose director will report directly to the Secretary.

The designation of the Director of the office at an executive level IV position, and appointed by the President with Senate confirmation.

A requirement that the Director for Civil Rights be delegated authority by the Secretary for insuring that all civil rights laws are enforced in all program units of the new Department, and a prohibition against any redelegation of this authority to any official not directly responsible to the Director.

A requirement that the Director prepare and transmit directly an independent report to the President, the Secretary, and the Congress concerning the status of compliance with the civil rights laws relating to education. The report would include a statement concerning the Director's plans and recommendations to ensure improved enforcement of and continued compliance with the civil rights laws relating to education. The report would also identify problem areas in which more concerted enforcement efforts are needed. The plans and recommendations set forth in the report shall reflect the perceptions and views of the OCR Director and his or her staff.

These proposals will assure adherence to civil rights enforcement within the program units of the Department. Presently, the Director of HEW's Office for Civil Rights performs at a GS–18 level. This position is not Presidentially appointed, nor subject to Senate advice and consent. The increased status assigned to the function by S. 210 will (1) improve the ability to recruit high-level individuals; (2) demonstrate the importance the Federal Government places on civil rights enforcement in education; and (3) assure that the head of civil rights enforcement is accountable to the President and to Congress, as well as to the Secretary.

According to the Office of Management and Budget, the transfer of the education activities of HEW's Office of Civil Rights to the new

Department would involve the transfer of approximately 1,023 OCR staff members. This raised some concern in the Committee that the Department of Health and Human Services might not have adequate staff remaining to carry out its responsibilities concerning civil rights enforcement in health and welfare areas. However, James McIntyre, Director of OMB, told the Committee last year that this transfer would actually enhance civil rights activities in the health and welfare areas: "These areas have been dwarfed by education within HEW; in the Department of Health and Welfare they would clearly be given the attention they deserve." (Letter of June 16, 1978, to Chairman Abraham Ribicoff by James T. McIntyre, Jr., Director, Office of Management and Budget.) In addition, Mr. McIntyre committed himself to review OCR's staffing needs, both within the new Department of Education and within the Department of Health and Human Services, within one year after the Department of Education's establishment in order "to be certain that the Office is capable of carrying out its mandate."

The Committee believes OCR should have adequate staff in the new Department as well as in the Department of Health and Human Services and expects OMB to report its finding of this review to the appropriate congressional committees when it is completed, but not later than 15 months after the Department's creation.

Another concern raised in the Committee's consideration of the OCR transfer had to do with data collection. The Committee recognizes that adequate data are essential to effective civil rights enforcement and does not intend anything in S. 210 to interfere with the enforcement of the Civil Rights Act of 1964, or any other nondiscrimination provision of Federal law or to abrogate or otherwise limit the timely collection of such information, or the securing of such records as are necessary to ensure the complete and uniform enforcement of these acts among the recipients of the Department's programs.

However, one of the Committee's objectives in establishing the new Department is to reduce the paperwork and red tape associated with Federal education programs, particularly as it burdens State, local and tribal governments, public and nonpublic educational institutions. Therefore, the Committee expects OCR data collection efforts to be consistent with the paperwork control role assigned the Federal Education Data Acquisitiion Council in the 1978 Education Amendments (Public Law 95-561). The Committee, mindful of section 400A(a)(6) of the General Education Provisions Act, feels the interests of both paperwork and civil rights enforcement are not incompatible. Additionally, the Committee expects the Director to consult with the Undersecretary to ensure that its data acquisition requests are informed by an intergovernmental perspective.

The Director should specifically identify any problem he or she has in collecting data in OCR's annual report to Congress, and suggest recommendations to solve these problems.

To provide OCR with a greater capacity to analyze the data it collects, the Director should be authorized to enter into contracts and other arrangements for audits, studies, analyses and other services with public agencies and with private persons, and to make such payments as may be necessary to carry out its compliance and enforcement functions.

The establishment of the Office for Civil Rights provides an opportunity to improve current procedures. The active involvement of those involved in ensuring the achievement of equal educational opportunities will be needed. Therefore, these individuals both in and out of government should be consulted to obtain suggestions for possible improvements that could be made during the transition.

The Committee expects the Office of Management and Budget will exercise oversight management authority to make certain the Department gives its civil rights responsibilities high priority, and expects the Department of Justice to exercise its supervisory powers regarding title VI of the Civil Rights Act of 1964 under Executive Order 11247.

DEPARTMENT ROLE IN ELEMENTARY AND SECONDARY EDUCATION

S. 210 provides for the establishment within the new Department of an Office of Elementary and Secondary Education to be headed by an Assistant Secretary for Elementary and Secondary Education. The Committee estimates the new Office will administer almost $6 billion in education programs and have an estimated staff of 1,000. Since the 1960's, the primary Federal education effort has been to increase access to education and to help move toward equal education opportunity for all Americans. The Office of Elementary and Secondary Education will continue this effort by supplementing and complementing State and local government's efforts to eradicate educational inequity and to ensure economic productivity.

Although the lives of more than 48 million students in elementary and secondary day schools are touched by the programs established by the Elementary and Secondary Education Act, the direction and administration of these programs is currently assigned to a number of officials buried within the U.S. Office of Education structure. There is little apparent effort by these officials to coordinate these programs to most effectively meet the needs of students in their communities and classrooms.

By placing these programs in the new Department under the jurisdiction of an Assistant Secretary for Elementary and Secondary Education, the Committee believes that coordination for better delivery of Federal services to students, schools, and local education agencies can be achieved. A highly visible Assistant Secretary should be accessible and responsive to concerns of local school officials, teachers, parents, and students. An Assistant Secretary can better direct program officers in streamlining delivery and will have authority to institute delivery procedures which are responsive to the needs of local communities. An Assistant Secretary can oversee the total process of administering Federal education programs in such a way that the dollars Congress intends to be expended on actual program operation will go to schools where teaching and learning take place, rather than be squandered on administrative functions in the Federal and State bureaucracies.

DEPARTMENT ROLE IN POSTSECONDARY EDUCATION

American postsecondary education is a large and diverse enterprise enrolling more than 13 million students in some 3,000 colleges and universities, 4 million students in 1,000 community colleges and over 8,000 noncollegiate vocational postsecondary institutions. Higher education alone is almost a $50 billion a year enterprise which employs more than 600,000 instructional and research staff and 1.3 million administrative and support personnel. Of the estimated $22 billion Federal spending on education, approximately $9.6 billion is directed to postsecondary education.

The bill would establish an Office for Postsecondary Education, headed by an Assistant Secondary for Postsecondary Education, to assure that the needs and concerns of this major sector of education are represented at the highest levels of the Department of Education. The Office would have a staff of approximately 1,200 and have program spending authority in the approximate amount of $5.5 billion.

The need for a high-level spokesperson for higher education was discussed during the Committee's hearings. One fear raised by some in the higher education community was that a Department of Education might be dominated by elementary and secondary education interests. However, in terms of dollars expended, higher education and elementary/secondary interests are approximately the same. Both categories are funded near $5.5 billion. Dr. Sidney Marland, in testimony before the Committee stated: "While the higher education programs are fewer in number, they are substantially in parity in terms of dollars with elementary and secondary."

In response to a written question submitted by Senator Ribicoff to six former U.S. Commissioners of Education requesting suggestions for balancing elementary and secondary and higher education interests, the overwhelming response supported the need for an Assistant Secretary or Under Secretary for Postsecondary Education. Support for this position was also given by Robert L. Egbert, Dean, Teachers College, University of Nebraska at Lincoln, on behalf of the American Association of Colleges for Teacher Education, the Dean's Network and Wilbur Cohen, Dean of the School of Education of the University of Michigan.

The Department will become the lead Federal agency in coordinating Federal policies and programs designed to improve postsecondary educational opportunities in the nation. Promoting equal access to postsecondary education should be accomplished primarily by maintaining direct grant and loan assistance programs for qualified and needy students. The Assistant Secretary for Postsecondary Education should also assure that basic educational opportunities grants and loans continue to be available to economically disadvantaged students who attend black colleges and universities or other institutions of their choice.

The Department will also be expected to assist the growth and development of a variety of academic programs and related services offered at our nation's public and private postsecondary institutions. Among the special programs requiring departmental attention and commitments are continuing education programs, lifelong learning library facilities and training programs associated with college instruction and research, counseling and community services, and institutional offerings relating to special services for individuals and groups underrepresented in higher education and certain technical and professional fields.

Characteristics of and changes in postsecondary education

Postsecondary education in this country is exceedingly diverse and extensive. Sectarian and private groups maintain and operate more than one-half of the nation's 3,000 colleges and universities. Institutions of higher education serve many purposes and many different clients. Each of these institutions should be able to choose and pursue its own course. Department officials should guard against carrying out any practices which have the impact of homogenizing or standardizing policies and services developed by State, local, or private higher education officials and their governing boards or of intruding into the areas central to the autonomy of such institutions.

Support for R. & D. at colleges and universities

Researchers and graduate students at colleges and universities are principal participants in the nation's basic research effort. Approximately two-thirds of all Federal R. & D. efforts, or about $3.6 billion (fiscal year 1979 OMB estimate), are obligated to colleges and universities. Federal agencies involved in basic research, such as NSF, NIH, the Departments of Defense and Energy, will continue their funding of the majority of the research dollars flowing to universities. S. 210 states specifically that no other mission-oriented research functions are transferred, other than those specifically provided for by the Act.

Although the majority of the funds for research, evaluation, policy studies, and demonstrations will undoubtedly remain outside the jurisdiction of the Office of Postsecondary Education, the Committee expects this Office to play a major role in assisting the research agenda for postsecondary education issues.

Role of the Assistant Secretary for Postsecondary Education

The Assistant Secretary and the Department itself is expected to be sensitive to the values of pluralism and diversity of higher education. The Assistant Secretary will establish continuing relationships with students, faculty, administrators, trustees, and other leaders to identify issues and problems and to make recommendations for improvements in Federal education programs affecting postsecondary education.

The Federal government is the source of one-third of the funding for higher education. One of the most persistent criticisms of Federal activity in the field of higher education is the overabundance of burdensome regulations. The Assistant Secretary for Postsecondary Education will be able to work with institutions of postsecondary education and with other Federal agencies and Departments in eliminating these burdensome regulations. The Committee foresees the Assistant Secretary for Postsecondary Education as the leading figure in helping postsecondary institutions strengthen and control the direction of their institutions over their own programs and policies.

The bulk of the Department's funds for postsecondary institutions will support the several major programs of student financial assistance, which are expected to be administered by the Office of the Assistant Secretary. Federal financial assistance to undergraduates has become a critical factor determining whether or not students from lower and middle income families attend a postsecondary institution. More than 82 percent of the Federal aid to postsecondary education includes grants and loans to students. Of this amount, 91 percent eventually goes to undergraduate institutions.

This act transfers four additional direct student aid programs to be grouped with approximately one dozen direct assistance programs administered by the Bureau of Student Financial Assistance in USEO. The Assistant Secretary will administer all "need-tested" Federal student assistance programs. "Need-tested" means that financial assistance grants and loans are awarded according to the student's or his or her family's ability to pay the cost of postsecondary instruction, and the price of education at a particular college or university.

The Assistant Secretary should consider the benefits associated with subsequent consolidation and coordination proposals. Effective coordination within this Office will greatly enlarge the capacity for simplifying the application process and increase the Federal ability to minimize the cost of defaulted loans by an improved collection process. Most importantly, a single agency will be able to analyze Federal student loan trends and problems in terms of long-run indebtedness to the student and his or her family and in terms of grants programs directed toward equal education opportunities at the postsecondary levels.

In addition, the Assistant Secretary will be responsible for coordination of Federal programs of financial assistance to students at the undergraduate, graduate, and professional levels. Such coordination is essential to reduce the complexity of information on the various specialized scholarship, fellowship, and loan programs conducted by other Federal agencies, and to provide to the greatest extent possible common conditions and criteria for eligibility, application, award, and administration.

The Committee recognizes the important role community and junior colleges have played in revitalizing and strengthening our American educational system. Today, more than four million students attend approximately 1200 community colleges. Because community colleges constitute a major segment of postsecondary education, the Committee suggests a director for community colleges have direct access to this Assistant Secretary.

OFFICE OF OCCUPATIONAL, ADULT AND COMMUNITY EDUCATION

The creation of the Office of Occupational, Adult and Community Education, headed by an Assistant Secretary, will provide needed vocational, adult, and community education assistance to the State and local programs, which constitute many times the magnitude of Federal efforts in this field. The Office's programs would have a fiscal 1980 authorization of over $781 million and would utilize a staff of approximately 300.

Today, over 15 million American children are involved in vocational education. Youth with more education who have less work experience are found to earn substantially more than their counterparts with less education. Adult literacy goes hand-in-hand with job stability and income continuity. Yet less than 5 percent of adults eligible for basic and secondary education receive serious services.

Because Americans have more leisure time due to advancing technology, education is needed to prepare our citizens for several jobs during their lifetimes. Studies show more than 75 percent of adults in the United States are interested in some form of continuing education. The elderly, and women, especially, seek new educational opportunities.

Schools increasingly are becoming important vehicles for the delivery of services to citizens by using valuable school facilities and costly educational services efficiently with related community services, yet less than 10 percent of the 16,000 American school districts have opened the schools to recreation and community services use. These schools which have opened their doors to the community are involving the people of that community in a total educational program. These schools offer recreation, public health, nutrition education, and other services to citizens of all ages and special services to the handicapped. They are put into round-the-clock service where local communities determine the needs that exist. Thus, community education programs and full use of schools by the community reduce taxpayer costs and promote increased community involvement.

The creation of this Office will provide the necessary administrative structure capable of assisting States and localities in delivering effective education and training and adult community services. The Office will be expected to be involved in perceiving changing trends in education and administering programs which prepare individuals for continuous education throughout their working lifetimes.

At the Federal level, this Office will effect a partnership between education programs with occupational outcomes in the Department of Education and manpower utilization programs with significant training components inthe Department of Labor. While youth education and employment constitute a primary focus of the work of this Office, preparation of adults and older Americans for access to education and work would be a priority mission as well.

At the State and local levels, this Office will provide programmatic assistance in achieving a blend of vocational, adult, and community education programs. This blend, in turn, will help to attract, retain, and serve private sector economic enterprise, to improve the quality of life and to coordinate education and work programs. With its focus on concrete skills and performances, the Office will promote exchanges between the schools and the larger community through provisions of grants to States and localities and by dissemination of the exemplary program currently under development or in operation.

The Office will also serve to promote confidence in and access to the schools by policymakers and the citizens of each community. With declining enrollments, surplus facilities, and strained resources affecting the long-term prospects for effective American education, the mission of this Office will be to chart the most cost-beneficial, community-responsive link between education and occupation, on the one hand, and school and community, on the other.

In light of the creation of this new Office, the existing functions of the Bureau of Occupational and Adult Education would be located within it and the present Bureau would be abolished. Thus, the new Office would administer the programs now being administered by the Bureau of Occupational and Adult Education. These would include programs relating to manpower training and development, technical training, and other functions concerned with vocational, occupational, adult, and continuing education. The community schools and community education programs presently located in the Bureau of Occupational and Adult Education would be established prominently within the new Office to be concerned with school-community linkages and would administer and coordinate programs authorized or mandated in a wide range of associated legislation.

VOCATIONAL REHABILITATION

S. 210 establishes an Office of Special Education and Rehabilitative Services within the Department. The Office would be headed by an Assistant Secretary for Special Education and Rehabilitative Services, who would be one of the principal officers of the Department, reporting directly to the Secretary.

The bill transfers to the Department HEW's Office of Information and Resources for Handicapped Individuals; the Rehabilitation Services Administration (except the portion which administers the Developmental Disabilities Assistance and Bill of Right Act); the National Institute of Handicapped Research; the Interagency Committee on Handicapped Research; the Helen Keller National Center for Deaf-Blind Youth and Adults; the National Council on the Handicapped; HEW's special institutional relationships with Gallaudet College, the National Technical Institute for the Deaf, and the American Printing House for the Blind; and, the Education Division's Bureau for the education and training of the handicapped.

Specifically transferred to the Office would be the functions of the Bureau for the Education of the Handicapped, the Rehabilitation Act of 1973 (except for the developmental disabilities program), the National Institute of Handicapped Research and the functions under the Randolph-Sheppard Act.

The new Office will not administer vocational rehabilitation services for Social Security disability beneficiaries, vocational rehabilitation services for Supplemental Security Income beneficiaries, or the developmental disability programs. This exception includes the beneficiary rehabilitation program funded through the Social Security Disability Insurance Trust Fund.

Frank G. Bowe, Director of the American Coalition of Citizens with Disabilities, testifying before the Committee for his association as well as the Council for Exceptional Children and the National Rehabilitation Association commented:

> This structure makes eminently good sense to us. It distinguishes clearly between goal-directed programs aimed at enhancing the potential of disabled persons and entitlement programs aimed at protecting the income and medical needs of persons who are dependent upon others for partial or full support.

The legislation provides for the transfer to the Office of the following functions:

Rehabilitation Services Administration (RSA)

The basic purpose of the vocational rehabilitation programs which RSA administers is to provide a comprehensive program of rehabilitative services for physically and mentally handicapped persons whose disability substantially impedes employment, but who can reasonably be expected to benefit in terms of employability from these vocational rehabilitation services.

The programs areas that are administered by RSA and are being transferred into the new Department include: Basic State grants ($760,472 million), innovation and expansion ($18 million), service projects ($17.328 million), research ($31 million), training ($30.5 million), and the Randolph-Sheppard vending facility program ($2.4 million). The program for deaf-blind services is also transferred ($2.5 million).

The largest program transferred is the basic state grants for rehabilitation services program. The Federal Government provides grants to States to provide the vocational rehabilitation services needed by handicapped individuals to enter into or return to the world of employment. The grants are used to provide the following services: Counseling, referral, placement, vocational and training services, interpreter and reader services, rehabilitation teaching, tools and equipment, transportation, technological aids, construction of rehabilitation facilities, and recruitment/training.

Bureau of Education for the Handicapped (BEH)

BEH is presently located in the Office of Education within the Department of Health, Education, and Welfare. It is the principal agency for administering and carrying out programs and projects relating to the education and training of the handicapped as authorized by the Education of the Handicapped Act, and the Education for All Handicapped Children Act of 1975. Its programs include: State assistance; special population programs; regional vocational, adult, and postsecondary programs; innovation and development; media and resource services; special adult education manpower development; and special studies.

S. 210 has provided for the consolidation of the Rehabilitation Services Administration and the Bureau of Education for the Handicapped within one Office of Special Education and Rehabilitative Services in the Department of Education.

The Committee realized an opportunity to make an organizational change in the existing fragmented programs that can initiate the development of a comprehensive Federal policy for the education of the handicapped.

There are several reasons the Committee believes the vocational rehabilitation programs administered by RSA should be joined with the programs administered by BEH in the Office of Special Education within the Department.

The first reason is that there is a natural relationship between the programs BEH and RSA administers. An examination of the foregoing program descriptions will indicate that both entities have as their common mission improving the ability of handicapped individuals to adapt to society. The Committee believes this relationship should be strengthened and that there should be a smooth transition between the general schooling a handicapped child obtains and the vocational education that same individuals receives when he or she decides what career or vocation to pursue.

The Committee also determined there is a significant overlap in the individuals served by BEH and RSA. Although BEH primarily educates children, a significant portion of its programing responsibilities trains adults who in turn train handicapped people. Programs such as the special education manpower development project illustrate this point. In addition, BEH administers programs which counsel the families of handicapped individuals. The regional vocational, adult, and postsecondary programs further illustrate the various age groups served by the programs BEH administers. On the other hand, RSA does not restrict itself to one age group either. It also trains nonhandicapped individuals of any age who in turn train handicapped individuals, and provides for model preschool programs for the handicapped.

The Committee believes placing vocational rehabilitation programs in the same office with programs concerned with the general education of the handicapped would—whether that general education is achieved through direct training of the handicapped or through the training of individuals to teach the handicapped—provide a continuum of habilitative services for the handicapped from birth through adulthood, as Senator Randolph, chairman of the Senate Subcommittee on the Handicapped, has suggested in a letter to the Committee dated May 12, 1978.

Another reason the Committee favors placing vocational rehabilitation and the programs BEH administers in one office within the Department of Education is because the focus of these programs is educational. These programs emphasize training. Training is directly related to educational concerns. Moreover, their overall goal is to improve the ability of handicapped individuals to adapt to society. The Committee believes this goal is one which the Department of Education will be broad enough to encompass.

Further, it is the Committee's determination the goal of helping to make handicapped individuals become productive, to live with the same independence and dignity of nonhandicapped individuals, is much more compatible with the concerns of education than it is with health and welfare. Handicapped individuals have special needs for services and benefits regardless of income. Education has traditionally made as one of its goals the delivery of services and benefits regardless of incomes. Health and welfare, on the other hand, as they will exist in the Department of Health and Welfare, will deliver services and benefits on the basis of economic status. Thus the Committee believes the Department of Education will better be able to meet the needs of the handicapped as they relate to education.

Another factor the Committee took into consideration in coming to the conclusion the vocational rehabilitation programs should be transferred and joined with the programs administered by BEH is the significant number of States that presently administer their vocational rehabilitation programs from their educational agencies. This illustrates the proven compatibility between vocational rehabilitation and education.

While recognizing this existing compatability, it is not the intention of the Committee to mandate that any State must administer its vocational rehabilitation programs from its education agency. Therefore, the Committee added language to the bill which clearly states that nothing in the Act shall be construed to require any particular organizational structure of vocational rehabilitation at the State level.

During its deliberations on this issue the Committee learned of widespread support for the transfer of RSA and its consolidation with BEH in the Department from Senator Randolph, chairman of the Senate Subcommittee on the Handicapped, the Council for Exceptional Children, the National Federation of the Blind, the American Coalition of Citizens with Disabilities (made up of 75 organizations), the National Rehabilitation Association and the State Admnistrators of Vocational Rehabilitation.

Dr. Bowe succinctly summed up support for this transfer:

> First, services for disabled people have suffered greatly from a severe lack of visibility, fragmented and deeply buried as these programs have been. There is every reason to believe the structure proposed by this Committee would make a truly historic breakthrough for disabled Americans, of whom there are currently fully 36 million. . . . Second, educational and rehabilitative services for disabled people have been poorly coordinated on the federal level. Just one week ago, HEW held the first meeting in ten years of the people responsible for coordinating special education, vocational education, and vocational rehabilitation programs for disabled youth and adults. The purpose of the meeting was to attempt to develop similar plans for service delivery within the three streams of service. That this occurred in 1979 speaks for itself.

In conclusion, the Committee believes the natural relationship which exists between the programs administered by RSA and those administered by BEH, and the relationship between both of these entities and the Office of Information and Resources for the Handicapped, merit their consolidation in one office. The Committee further believes the focus of these programs is more compatible with the goals of education than with health and welfare. Therefore, the Committee realized an opportunity to elevate the status, further the goals, and improve the coordination of the programs concerned with educating the handicapped by placing the Office of Information and Resources for the Handicapped, the Rehabilitation Services Administration, and the Bureau of Education for the Handicapped, along with other functions, in one Office of Special Education and Rehabilitative Services.

DEPARTMENT OF DEFENSE OVERSEAS DEPENDENTS SCHOOLS

The Committee recommends the transfer of the Department of Defense (DOD) overseas Dependents Schools system to the new Department of Education, and believes their inclusion in the Department will allow for the improvement of the education of their students.

As the American role in the world affairs grew after the Second World War, so did the need for providing a quality education for the dependents of military personnel stationed overseas. Today, there are 267 DOD dependents schools scattered across 24 different foreign countries serving approximately 135,000 students. Altogeher, the budget for the Schools is approximately $361 million, and the staff totals nearly 9,700.

Unfortunately, the DOD Schools have never been fully statutorily authorized, until the passage of the Defense Dependents Education Act, Title XIV of the Education Amendments of 1978. Up until now, the DOD Schools' authorization has been contained only in appropriations bills for the duration of their more than 30 years of "temporary" existence—normally less than a paragraph of legislative language. In the past, direction and guidance from the Congress has come in the form of detailed committee reports. The Defense Dependents Education Act takes effect on July 1, 1979.

The Committee believes more attention and oversight is needed for this important school system. The legislation establishes an Office of Education for Overseas Dependents, to be headed by a high-level Administrator who will report to the Secretary of Education. The schools will represent a major responsibility of the Department of Education. If located within the continental United States, the system would rank as the 12th largest among the nation's public school districts. The quality of the schools should improve and prosper in the new environment.

The Committee finds that the primary purpose and goals of the DOD schools are more in line with those of the Department of Education than the Department of Defense. Obviously, the primary mission of the Defense Department is not education. The schools' budgets are considered along with the rest of the DOD budget, where often there is a limited understanding of the intricacies of operating so large a school system. Although the immediate staff of the DOD schools is made up of professional educators, the top officials in DOD normally have little or no expertise in the field of education. The Department of Education, in contrast, will be the Federal agency having direct contact with American education.

The DOD schools do not prepare its students necessarily for any purposes related to the military. The schools are regular American public and elementary public schools, serving children from kindergarten through high school. The expertise and research findings in education will be more readily accessible in the Education, not the Defense Department.

Further, the DOD schools should not, by any means, be isolated from the rest of American education. Locating the schools in the Department of Education would help ease the transition of its students to the public schools in the continental United States. There is considerable movement between the DOD and the American public schools. Terms of duty for most military personnel average about 3 years overseas. It is both necessary and desirable to provide a sense of continuity for students going from one system to another. The Department of Education will be more attuned to the ever-changing trends in American education, and provide the Administrator of the overseas schools valuable assistance in sensing, adjusting, and responding to these trends.

The Committee expects the Secretary of Education will use his or her powers to make available to the schools the vast educational resources in the new Department. The Schools should be allowed to participate in a wide range of education programs not now open to them. The Secretary should make strong efforts to encourage the participation of the DOD Schools in vocational education programs, services for the education of the handicapped and gifted children, library and academic facilities improvement, research functions, and other programs which would benefit the Schools. The Secretary should also work closely with the Administrator of Education for Overseas Dependents and the heads of other departments to provide adequate and quality pre-school education services for children at the Dependents Schools.

The transfer of the DOD schools should be conducted with a minimum of disruption. The legislation provides for a 3-year "phase-in" period, during which time the Secretary is required to develop a comprehensive plan for effecting the transfer. The continued efficient operation of the schools is very important, and will require a careful analysis before the transfer plan is actually designed and executed. During the transition period, the Committee is directing the Secretary of Education and the Secretary of Defense to work closely and harmoniously to assure a smooth transfer of the schools and avoid any disruption to or deterioration of the education programs conducted in the schools. Section 505(a) insures the agreements between the schools' present administration and the Armed Forces in existence at the time the Department of Education is established shall remain in effect until new agreements are negotiated as part of the planned transfer.

The Committee intends that all benefits presently enjoyed by personnel of the overseas schools be unaffected and retained through the transfer of the schools to the Department of Education. Section 401(g) of the legislation specifically provides that the U.S. government shall continue to classify overseas personnel as the civilian component of any status of forces agreements between the U.S. and a foreign country or international organization. The Committee intends that this apply to all agreements giving special treatment or status to personnel of the overseas schools, whether they are defined specifically as the "civilian component" in that agreement or in a similar manner. Further, section 421(a)(2) provides that the overseas personnel shall continue to be treated by the Defense Department as their employees so that they may continue to receive any and all benefits available to them at the present time. The Committee believes these important benefits, such as access to commissaries, exchanges and other military-related facilities, can be continued with no disruption or inconvenience to either the overseas personnel or the Department of Defense.

The Committee believes the reorganization of the DOD schools which is currently underway should continue, and should not be disrupted during the transition period.

Increasing parent and citizen involvement

The Committee is concerned with the disturbing lack of effective and meaningful parent, citizen, and student involvement in the operation and policy-making of the overseas dependents education system.

Final authority for the Dependents Schools—ranking as the 12th largest American public school system—rests with one individual, the Director of the Office of Dependents' Education in DOD. The Committee believes this arrangement runs counter to the American tradition of setting educational policies and programs through boards made up of elected parents, citizens, students, and educators. In the transfer of the Dependents Schools to the Department of Education, the Committee suggests the Secretary of Education take immediate steps to increase participation in the schools by members of the military community and their families, and by professional educators and administrators.

Section 302(c) of the legislation requires the Secretary of Education, in developing a plan for transferring the Dependent Schools to the new department, to also include recommendations for increasing the participation of parents, students, teachers, and administrators in the administration of the schools while retaining links to the military. The Committee recommends the Secretary and the Advisory Council on Dependents Education consider the establishment of a governing board for the Dependents Education System at the federal level, with boards also at the local and base level. The Committee notes there already exists such a framework and structure, but in an advisory capacity only. To advise the school principals at the local level, there exists Local Community School Advisory Councils. From there, District Advisory Councils advise District Superintendents, Regional Advisory Councils (Atlantic, Pacific, and European) advise the Regional Directors, and finally, at the national level, the Advisory Council on Dependents Education will advise the Director of the Dependents Schools. The obvious shortcoming of these councils, however, is that their success depends totally on the receptiveness of the officials being advised. These panels must be given a large measure of authority over educational programs and policies to be effective, in much the same way as school boards on the local, regional, and State levels operate here in the continental United States.

The governing board established for the Dependents Schools should be given total responsibility for setting all policies for the schools. The Administrator of Education for Overseas Dependents provided for in S. 210 would report to such a board, as a school superintendent in the U.S. reports to the local board of education. For the governing board to work properly, a number of details would have to be worked out and thoroughly investigated, such as the location and meeting place for the board, method for selecting board members, authority over local school boards and relationships between the two, and the relationship between the board and the Department of Education. The Committee expects the Secretary and the Advisory Council on Dependents Education, in consultation with overseas parents, students, and teachers, will give careful consideration to such a concept.

To insure the Dependents Schools receive priority attention in the Department of Education, the Committee is directing in the legislation that the Administrator of Education for Overseas Dependents report to the Secretary. This will also increase the accountability of the schools' administration and facilitate actions to increase participation.

The Committee feels the transfer of the DOD schools to the Department of Education will broaden the scope of the Department, improve the quality of the schools, and most importantly, improve the quality of education for students who attend the schools. The Federal government has a clear obligation to provide an education of equal or superior quality for the dependents of military personnel.

SCIENCE EDUCATION

The Department will assume the administration of a number of science education programs presently located within the Science Education Directorate of the National Science Foundation (NSF).

S. 210 insures appropriate placement for the science education programs by transferring them specifically and intact to the Office of Educational Research and Improvement. Within such an organizational structure the science and technology programs would constitute approximately one-fourth of the R. & D. programs categorized and administered by this Office. The Committee expects science education to be both a visible and substantial component in the new Department, as well as a special entity which will complement science and technology initiatives supported by the NSF and other science and research agencies.

Transfer of these programs will enable the Department to take an active role in assisting the improvements of the quality of science teaching in schools and in undergraduate postsecondary institutions, as well as in improving public understanding and science literacy among the general public. The Department will assume primary responsibility, not only for the specific science programs transferred, but for the conduct of studies, surveys, and evaluations relating to the quality of science teaching and learning and improved understanding of science. Dissemination of science curricular materials and teaching practices should become a departmental priority.

A science education unit in the Department is expected to assist in enhancing the quality of school science programs and the quality of teaching unnecessary overlap between education programs supported by NSF and the authorities administered by HEW's Education Division.

The Education Division supports projects worth millions of dollars which deal with science education and curricular development (for example, biomedical education, environmental education, metric education, ESEA and Emergency School Aid science and math projects) and supports research relating to teaching subjects including science, math, and the use of instructional technologies. Thus, apart from the NSF science education programs, the Department of Education will administer hundreds of millions of dollars for science-related and mathematics programs. The substantive quality of science and math curricular research and development programs will be assured by the direct involvement and assistance of scientists and science educators who will serve as staff, reviewers and consultants. These programs, along with those of science education, are expected to give strong impetus to science education in the new Department.

Declines in science achievement over the past decade have required renewed attention. Achievement in science, as measured by various national surveys and standardized tests, has steadily declined. Many science and mathematics teachers admit to having been inadequately trained. According to the recent report from the National Assessment of Education Progress (NAEP), high school "youths continue their downward trend in science despite the ever-growing demands of a technological society."

A strong commitment to science education will necessitate the placement and support for a strong and visible organizational entity in the

Department which concentrates attention and resources on science improvement. This unit will be located within the Office of Educational Research and Improvement and parallel other major efforts which focus on basic and applied research, postsecondary education improvement, and other program units which report directly to the Assistant Secretary for Research and Improvement.

The NSF programs transferred in the legislation represent approximately $58.7 million out of the entire $80 million fiscal year 1979 plan for the Science Education Directorate in NSF and will require the transfer of no more than 90 personnel.

S. 210, as reported, is consistent with the President's proposal for reorganization. Only those programs aimed primarily at students, the general public, and teachers in the elementary and secondary and undergraduate institutions will be transferred to the new Department. The programs which would remain at NSF include those aimed at recruiting and training scientific researchers, programs requiring direct participation of scientists, and those which provide highly technical science information and assistance to citizen groups and to scientists. The programs transferred are the following:

Teacher training.—These programs are primarily designed to assist in improving and updating the quality of experienced elementary and secondary school or teachers at all levels. Since the early 1950's, these workshops and institute-type programs have been extremely popular among teachers, and in 1979 some 18,000 persons will participate.

Student oriented.—These programs are directed at identifying, teaching, and involving (in laboratory and clinical settings) some of the Nation's most talented high school students. In 1979, some 5,000 students will participate in these programs, many of whom will be minorities and females who will receive encouragement to enter scientific fields.

Institutional support.—These programs provide funds for improving institutional facilities and equipment, primarily at 2- and 4-year colleges, including undergraduate colleges which serve blacks and other minority groups.

Science education research and development.—These programs emphasize assistance in developing innovative curricula and technologies and designing science programs for all youths and adults, including those created exclusively for the gifted and talented in preschools, schools, and undergraduate institutions, or in nontraditional settings.

Public understanding of science programs.—Certain programs that are designed to assist in improving the public's understanding of scientific principles and technological content which may be involved in broader public policy and political issues will remain in NSF.

The transfer of the existing science education programs from the NSF to the Department will not have the effect of amending Public Law 81-507, authorizing the creation of the National Science Foundation and the Science Education Directorate. The NSF will continue to assume responsibility for strengthening scientific research and may initiate new scientific programs and projects which relate to personnel and institutional development and public understanding, when they draw upon the scientific expertise of that agency.

Science programs dependent upon a research environment, educational efforts dependent upon the direct involvement and interaction of scientis[illegible]d science education programs designed for practitioners of scienc[illegible] for the public requiring scientific and technical information an[illegible]formation translations, should continue to function with the adm[illegible]strative structure of NSF.

The [illegible]F will maintain its primary educational function by continuing [illegible]s support for fellowships and traineeships closely associated with graduate and postdoctoral research programs. NSF will also retain responsibility for special graduate fellowships and traineeships for students and faculty in minority institutions and for other efforts which provide support for underrepresented individuals, that is, ethnic minorities, women, handicapped persons, who have the desire and potential to enter scientific and research careers, or to enroll in graduate schools, colleges, and universities to pursue scientific careers. The National Science Foundation will also retain its responsibility for sponsoring basic fundamental research that may relate to education and to human growth and development. Studies in cognitive development, linguistics, and those relating to various social science disciplines will continue to be promoted and funded by the appropriate Directorates within the NSF.

Project activities under the science and society program will continue to be administered in the Foundation, with the exception of certain activities relating to public understanding, which will be a shared responsibility among a number of Federal agencies. The science and society program is intended to bring about greater understanding and improvement to the relationship between the scientific and technological communities and to the larger society. Improving the public's understanding of complex science and technological principles and information often requires the direct involvement and participation of top scientific and technical expertise. As a result, the Committee feels the NSF should not be discharged from this set of activities. Much of this effort helps to assure the involvement of the research and academic communities in contemporary debates on public and social policy. This effort provides important assistance to public-interest groups seeking scientific and technical expertise and also examines ethical and value issues in science and technology.

The Committee expects the Secretary to work closely with and draw upon the advanced knowledge and technical expertise in the NSF and in other scientific agencies, institutions, and associations. It should also strive to improve contacts between the scientific and nonscientific communities and between scientists and professional educators. Assurances in these directions will ultimately lead to improved public undertanding of and appreciation for science.

NSF will continue to support basic or fundamental research relating to education and to initiate proposals for research, training, or development projects relating to education when it feels such an activity is in the national interest and within the scope of its mission and agency mandate "to promote the progress of science."

The Committee urges the Secretary to make extensive use of scientific talent among the academic and university communities. Limitations of salary and expense (S.&E.) funds often preclude more direct outside participation in planning, budgeting, and evaluation activities. Nevertheless, the Committee feels strongly that immediate steps and plans need to be developed by the Secretary to assure the direct and continued involvement of the scientific community in the development of general science-related policies in specific tasks associated with the evaluation of competitive grant and contract applications, and in the monitoring of ongoing science education projects, institutes, and dissemination efforts.

The Secretary should make use of provisions of this Act which govern appointments and compensation with respect to scientific and technical personnel. A major factor for the success and influence of NSF's science education efforts has been attributed to its strong commitment to the steady rotation of scientists from the field into the agency. Continued use of noncompetitive appointments should be based on highly selective skills or knowledge which may not be available in the agency as well as a general desire to have notable and competent science educators functioning within the agency at all times. Technical assistance to other Federal education program managers and project officers and to other interested groups or individuals concerning science education should be a significant departmental function apart from the funding of programs. Transfer of personnel from NSF to the Department should help to build the nucleus of a cadre of expert science educators. An immediate review of staffing requirements for the science education activities should be undertaken.

Finally, the Secretary should also make note of the Committee's concern for the organizational placement of the science programs being transferred. The Committee recommends that a supergrade-level person with a strong science background should directly supervise the science program activities.

HUD COLLEGE HOUSING PROGRAM

The Committee recommends the transfer of the college housing program, presently administered by the Department of Housing and Urban Development (HUD).

The college housing program was created by title IV of the Housing Act of 1950, as amended, to assist higher educational institutions, through long-term Federal loans, in the construction, expansion, or rehabilitation of dormitories, dining halls, student unions, infirmaries, and other campus housing. The program presently operates on a revolving fund, estimated to be aproximately $110 million this year. Interest rates for the loans average about 3 percent. More than $3 billion in loans to publicly operated postsecondary educational institutions are still outstanding. For the private institutions participating in the program, nearly $2 billion are outstanding.

Generally, the Committee believes the transfer of the HUD college housing program would allow for the development of a consolidated assistance program for construction of higher education facilities. There already exists in the Office of Education the higher education facilities loan and insurance fund, the purpose of which falls into line closely with the college housing program.

The Committee further believes it will be important that the present high level of efficiency of operation of the program not be disturbed by the transfer. HUD now uses complex legal agreements and procedures for operating the program, and their transfer should be carried out with a minimum of disruption and burdensome changes. The Committee recommends the Department of Education continue to use the services of the Federal Reserve Bank as the fiscal agent for the Department. Coordination between the Department and the FRB should be close and strong during and after the transition period.

FEDERAL INTERAGENCY COMMITTEE ON EDUCATION

There is a strong need for effective coordinatin of education programs in the Federal government. The Committee believes a useful tool for the Secretary of Education in achieving this coordination will be the Federal Interagency Committee on Education (FICE).

FICE was first created by an Executive order issued by President Johnson in October 1964, and later revised and updated in another issued by President Nixon in January 1974. In both cases, the FICE was created because:

> Continued close coordination of Federal educational activities will facilitate the resolution of common problems and otherwise promote effective planning and management [education] activities.

Through the creation of the Department of Education, the Congress will be taking a significant step toward consolidating a widely scattered, badly fragmented Federal education effort. Although the Department will, as provided for in S. 210, consolidate more than 170 education programs, there will still be other education programs in various Federal agencies. Coordination of these programs with those of the Department of Education will be an important function of the Secretary.

One such example would be in the area of international education. Increasing global interdependence hastened by exchange of ideas, people, technology, natural resources, and culture make international education an increasing part of the learning experience of all Americans. The establishment of FICE will provide an excellent vehicle for the Secretary of Education, who has primary responsibility for coordinating external activities in education and cultural affairs to propose and coordinate strategies for improving programs in international education.

For higher education, the importance of a strong FICE increases. As Charles Saunders of the American Council on Education told the Committee:

> The higher education community has had more interest in other programs elsewhere in the government than in the [HEW] Education Division. But at the same time, the need to coordinate the relationship across the government still remains very acute.

At the present time, the existing nonstatutory FICE does not function at the Secretarial level. The chairperson of FICE is the Assistant Secretary of Education. Agency representatives to the committee are often not high-ranking officials, which detracts from its effectiveness.

S. 210 elevates and upgrades FICE and gives it new prominence. The legislation mandates the chairperson shall be the Secretary of Education, thereby giving the committee Cabinet-level leadership.

The bill names some of the key Federal agencies which must designate representatives to FICE. In addition, the Secretary can appoint other members to serve on FICE or to participate in its meetings. Other participants or members might include ACTION, International Communication Agency, and the Smithsonian Institution. The language stipulates that these individuals must be from high-ranking, policy-level positions. The Committee believes this is crucial, as these members will be in a position to better implement FICE's recommendations in their specific agencies.

The legislation provides statutorily for FICE. The Committee which is charged with studying the Federal government's operation and structure with an eye towards efficiency, believes coordination will be one of the single most important tasks of the Secretary of Education. A job this important should not be left to Executive order authority, for priorities and needs change with the coming and going of different administrations. With S. 210, coordination of Federal education programs becomes a congressionally mandated priority and function.

The conduct of various studies, surveys, and evaluations relating to the overall impact and influence of Federal educational activities are also important initiatives for the Secretary to direct. The Committee believes the Secretary should make great use of the FICE in conducting such studies to facilitate interagency cooperation.

RESEARCH AND IMPROVEMENT IN EDUCATION

Patricia Albjerg Graham, Director of the National Institute of Education, in testimony before the Committee commented on the Federal government's unique role to "support sustained, disciplined, basic and applied research into the processes of teaching and learning, the operations of our school system, and the problems of children and adults trying to take advantage of what the schools have to offer."

The Committee has paid particular attention to the need to provide the new Department with a strong base for its research and improvement activities. The bill establishes an Office of Educational Research and Improvement (ERI), headed by an Assistant Secretary for Educational Research and Improvement.

The Department's assistance in the development of new knowledge about the educational process, and encouragement of its use in improving education, will be a major activity of the Department of Education. Both the Administration and organizations representing educational researchers have endorsed the importance of providing for a strong research component within the new Department.

Dr. Mary Berry, in testimony before the Committee stated:

> Perhaps the most overlooked and understated concern in the debate surrounding creation of a Cabinet-level Department of Education is research. One result likely to occur with the enactment of legislation establishing a Department would be the much needed consolidation of the Federal research functions in the Department. Indeed, the establishment of a totally new Office for Educational Research and Improvement will enable the Federal Government to bring

> together a wide range of disparate and overlapping programs. Although research on education has been helpful, it has not yet had as substantial impact on teaching and learning as it should.

The American Educational Research Association stressed that—

> strategic placement and status will allow the Education Research and Improvement unit to more effectively share its knowledge resources throughout the Federal Government, among different levels of education governance, and with the private sector.

In total, an estimated $700 million is spent on statistical analysis, research, development, demonstration, dissemination, and evaluation efforts in the Education Division of the Department of Health, Education, and Welfare, the National Science Foundation Science Education Directorate, and the other programs that would be transferred to the new Department by S. 210.

Support for research and improvement activities are the mechanisms through which the Federal Government can least intrusively and most productively increase the capacities of State and local and private educational agencies, other levels of governments, private organizations, and individuals to improve the quality of American education.

Federal research and improvement activities: An overview

Given the importance of the Federal government's support for research in education, the Committee's attention focused on numerous Federal agencies conducting educational research. The National Institute of Education (NIE) has the mandate to both conduct and coordinate educational research at all levels. The National Science Foundation, particularly through its science education programs, directs large amounts of money toward educational research, development, and improvement of science education. The Fund for the Improvement of Postsecondary Education (FIPSE) supports innovative projects in the area of postsecondary education, and the National Center for Educational Statistics (NCES) collects data, and conducts a wide range of research surveys on all aspects of education. The Office of Education administers the majority of research-related program activities in the Education Division, including operating research programs in vocational and handicapped education programs.

The Committee believes a much more rational organizational structure should be designed for the plethora of Federal efforts to support analysis, investigation, and improvement of our educational system. Moreover, the research and improvement activities of the Federal Government need to be more effective and efficiently managed.

An Office of Educational Research and Improvement (ERI)

S. 210 establishes an Office for Educational Research and Improvement, in order to correct problems with, and build on the strengths of, current research and improvement activities at the Federal level. The Office will be headed by an Assistant Secretary (executive level IV).

In establishing an Office of ERI, the Committee is both certifying the role and elevating the priority of Federal R. & D. activities which are designed to improve education, public understanding, and the capacities of educational institutions at all levels.

Mr. McIntyre, in his statement to the Committee, specified the primary components of the Office:

> The major program components of this Office will be the National Institute of Education, the Fund for the Improvement of Postsecondary Education, the National Center for Education Statistics and certain science education programs from the National Science Foundation. (Feb. 8, 1979.)

Chairman Ribicoff expressed similar intent in his S. 210 introductory statement before the Senate (Congressional Record, Jan. 2, 1979, p. S578). Although not all of these units are transferred explicitly to the Office of ERI, it is intended that they will be the major units administered by the Office.

The new Office will serve as an integrating and coordinating mechanism for supporting the effectiveness of a wide range of research, development, demonstration, dissemination, evaluation, analytical, and other activities facilitating change. The Committee is convinced of the importance of "buffering" the basic and applied research functions of the Office, and suggests that this issue be considered within the context of the creation of the new Office and Assistant Secretary position.

The Committee considered several alternative ways of reorganizing these functions. (Refer to S. Rept. 95–1078 on S. 991 for a discussion of the various options for organization of the Office as well as the advisory and policy councils associated with the entities transferred.)

This Committee expects the Labor and Human Resources Committee to direct its attention to the reorganization of educational research and improvement functions when hearings to extend FIPSE, NIE, science education, and telecommunications program authorizations are held this year as part of the higher education reauthorization process. At that time the possible relationships between the programs transferred by this legislation to the Office for Educational Research and Improvement and the overall mission of the Office can be considered further.

Criteria for assigning research and improvement functions

The bill provides authority for the Secretary to assign and reassign existing programs among units of the new Department including the research and improvement unit. The Committee does not, however, intend that all demonstration, development, and dissemination activities be assigned to the Office for Educational Research and Improvement. Operating program units should retain some capacity for data collection, evaluation, and dissemination of exemplary programs. Indeed, their present capabilities to carry out these functions should be strengthened.

The Committee expects the Secretary and Assistant Secretary to work with appropriate authorizing committees and subcommittees to assure that:

> Peer review and competitive processes guide the allocation of most research funds;
>
> Nearly all of the fiscal resources of the Office are allocated for research and improvement efforts conducted by qualified indi-

viduals and organizations outside of the Federal Government (through grants, contracts, and cooperative agreements);

A sufficient number of career and short-term scientific, professional, and technical personnel are recruited by the excepted service authorities in order to facilitate flexibilty and attract the best qualified persons;

Sufficient emphasis is placed on developing ways to improve the dissemination of the results of research and improvement activities; and

Reports and statements based on the research efforts funded by the Office are reported without delay.

The organizational structure of the Office of ERI

The Office of Educational Research and Improvement will not encompass all activities relating to research, development, dissemination, demonstrations, evaluation, and policy analysis. It will, however, encompass a substantial proportion of these activities, particularly those that support the priorities of State, local, and private educational agencies and other organizations and individuals concerned with learning more about and improving the quality of American education.

Among the existing organizational units or functions that are specifically assigned or that might be included within the Office are:

All elements of science education programs transferred to the Department from the National Science Foundation. (Assigned.)

The National Institute of Education.

The Fund for the Improvement of Postsecondary Education. (Assigned.)

The nonbroadcast telecommunications programs transferred by this bill from the Office of the Secretary of HEW to the Department. (Assigned.)

Those activities of NCES that involve longitudinal research or analysis on the condition and future of American education.

A capacity for policy-related research and evaluation studies assigned to the Office by the Congress or the Secretary.

Some existing demonstration and development programs aimed at supporting specific changes in curriculum or science-related programs, for example, metric or environmental education.

Telecommunications development activities currently scattered among numerous offices can be brought together in an effort to develop a more coherent Federal policy in this area.

Educational policy analysis studies and associated staff activities, which are also scattered among various offices and levels of the educational bureaucracy, can be brought together for the purpose of associating these tasks with the decisionmaking and planning processes.

The possibilities of improving the linkages and integration of numerous related, and sometimes overlapping program authorities are endless. The Committee expects the Secretary and Assistant Secretary to develop a more cohesive framework for the myriad number of research and improvement programs.

Locating the science education programs now in NSF alongside those science-related programs currently in the Office provides an example of the potential opportunities the Office for ERI provides.

The demonstration and faculty development programs in science education are consistent with and supportive of many of FIPSE's purposes. Science-related education programs currently administered by the Education Division equal in size those being transferred from the Science Education Directorate of the NSF. Improving linkages among this array of scientific programs will enrich the quality of Federal efforts to deal with the serious decline in student achievement in science and related fields.

Concluding comments

The Committee expects the Assistant Secretary for the ERI to support the policies and priorities specified in Sections 404, 405 and 406 of the General Education Provisions Act, which relate to the Fund for the Improvement of Postsecondary Education and the National Institute of Education. Equal commitments are required for continuing R.&D. policies and activities relating to the science education programs being transferred by the bill from NSF. Moreover, in developing the character, structure and practices of the Office and in allocating research and improvement functions throughout the Department, the Committee suggests the Secretary work closely with the Senate Labor and Human Resources Committee and the House Education and Labor Committee.

HEW'S SPECIAL INSTITUTIONS

There are presently four educationally oriented institutions over which the Department of Health, Education, and Welfare maintains budgetary oversight, and for which the Federal government is the major source of revenue. Each of these "special institutions" have as their primary mission the education and assistance of special, handicapped, or disadvantaged constituencies.

The Committee believes the transfer of the current relationship between these Special Institutions and the Federal government to the Department of Education is a logical and wise move. The four institutions include:

American Printing House for the Blind, located in Louisville, Ky., established by Congress to provide educational materials to elementary and secondary school-age blind students.

National Technical Institute for the Deaf, located in Rochester, N.Y., provides residential, coeducational postsecondary technical education for the deaf.

Gallaudet College, in Washington, an educational institution providing college preparatory, undergraduate and continuing education programs for the deaf. Gallaudet also includes the Model Secondary School for the Deaf and the Kendall Demonstration Elementary School.

Howard University, in Washington, a private nonprofit undergraduate college, graduate school and medical facility emphasizing the training of minorities in technical and professional fields.

The total Federal contribution to these four Special Institutions totaled $178.7 million in fiscal year 1979. The Committee estimates that no more than one or two staff positions are needed for maintaining oversight over the schools.

The Committee is impressed with the successes of these institutions, and recommends their association with the Federal government continue. The missions of these four institutions will follow closely that of the Department of Education.

In the past, all four institutions agree HEW has allowed them maximum flexibility in determining their programs and content of curricula, and in experimenting with new, innovative ideas in their special educational missions. The Committee strongly believes such a high degree of independence and autonomy must continue in the Department of Education.

While the responsibility for oversight of these institutions is statutorily vested in the Office of the Secretary, the Committee suggests the Secretary should consider the possibility of coordinating the functions of Gallaudet College, National Technical Institute for the Deaf, and American Printing House for the Blind with those of the Office of Special Education and Rehabilitative Services in the new Department. Oversight for Howard University should be coordinated with and linked to the Office of Postsecondary Education.

USDA GRADUATE SCHOOL

The Committee recommends the transfer of the USDA Graduate School to the new Department of Education.

The Graduate School was created in 1921 and has evolved over the years into a first-rate continuing education program benefiting nearly 30,000 employees of the Department of Agriculture, employees of other Federal agencies, and other citizens living in the Washington metropolitan area. The school receives no Federal appropriations, and its staff is not subject to civil service guidelines. The school does not exist for any purpose integrally related to the mission of the USDA. In fact, most of its students are employees of other Federal agencies, or are members of the general public. The Committee believes the central purpose and goal of the Graduate School relates closely to that of the Department of Education. The new Department will be very much concerned with adult and continuing education, which is the primary mission of the Graduate School. Further, the school will develop a more professional image by its association with an education agency, rather than an agricultural agency. The school's ties to USDA have been the source of much confusion over what it really does and what it accomplishes.

The Committee expects the Secretaries of Education and Agriculture to develop a plan and set of procedures, with concurrence of the Director and Board of Trustees of the school, for transferring the administrative offices to the Department of Education. Appropriate facilities should be made available which assure that the Graduate School continues and flourishes as a nonaccrediting and continuing educational institution.

The Graduate School should remain independent and not subject to any statutory or administrative responsibilities established by this Act. In no such manner should the Secretary of Education, or any other official of the Federal government, attempt to exercise any direct influence over the curriculum, program of instruction, administration, or personnel of the Graduate School. That should remain the primary responsibility of the school's board of trustees.

The Committee assumes that the Department and its education programs will require substantial library, classroom, demonstration and audiovisual facilities, and that these facilities can be shared and utilized by the participants, faculty and students of the Graduate School.

The Committee intends that the transfer of the Graduate School will not terminate or lessen educational services provided by the Graduate School to the Department of Agriculture and its employees. Nor should the change in administrative locations alter the special relationships which the Graduate School currently maintains with other Federal agencies, offices and private institutions throughout the Washington area.

Moreover, the Graduate School should continue to be maintained as an independent, nongovernmental institution and, other than indirect services accorded to its administrators and program operations, no federally appropriated funds should be used to support the ongoing operation of the Graduate School functions.

The Graduate School should also retain the prerogative to operate in its present format and under existing policies, or to sever its current physical ties with federal agencies and, thus, become a more independent, self-sufficient and autonomous educational institution. Such alterations of policies influencing or governing future directions of the Graduate School should be totally within the jurisdiction of its director, deputy director and board of trusteees. This transfer should not, in any way, affect the school's by-laws or rules and regulations.

The Committee believes the transfer of the Graduate School to the Department of Education will have a beneficial impact on both institutions. The Committee fully expects the Graduate School will continue to expand and prosper under the new Department.

CONSOLIDATION OF STUDENT AID PROGRAMS

S. 210 consolidates an additional four student loan programs in the Department of Education. This action builds on the work of the Administration towards consolidating most student assistance programs in a single agency to reduce fraud and increase efficiency. Last year, a giant step was taken towards this end through the creation of the Bureau of Student Financial Assistance in the U.S. Office of Education.

The maze of Federal student aid programs has hindered outreach, reduction of paperwork, and attempts to combat fraud. By not being together in one agency, these aid programs have developed different and incoherent funding mechanisms. Their outreach attempts have been very inconsistent—students know about some, but not others. Their eligibility standards are often not equitable or even comparable to similar aid programs. Perhaps worst of all, the scattering of student aid programs encourages substantial rates of default and abuse.

The legislation provides for the transfer of the Health Professions Student Loans programs from HEW, the Nursing Loans and Scholarships program from HEW, and the Law Enforcement Education Program loans from the Department of Justice. The combined budgets of these programs totals $66.7 million for Fiscal Year 1979.

The Committee believes there will be several benefits from this consolidation. It will lead to reduction of paperwork and simplification of application procedures. Administered in a single agency, the loan programs would probably require a simpler, uniform application which could be used for applying for most forms of Federal student assistance. The national student organizations believe this consolidation will also lead to better information distribution to college students and prospective students, not only on these loan programs, but also on their relationship to other forms of Federal student aid, such as grants and work study. High school students are particularly hard-hit by the fragmentation of Federal aid programs, primarily because there have been few coordinated efforts to inform them on a nationwide scale of their availability and existence. Both Congress and the Administration will find it easier to analyze the policy implications of the student aid programs, including such issues as student indebtedness and the effects of loans on career choices, when they are together in one agency.

Further, centralizing student loan programs would allow for the development of a standard need determination formula, so that aid can be better targeted to students who really need it most. And, consolidating the loan programs together has the potential for saving money. through shared administrative staff, and through improved Federal collection efforts, debt deferral, and forgiveness activities by reducing multiple billing agencies to one. The Office of Management and Budget estimates that at least $30 million could be saved by the consolidation.

The Committee finds that the Health Professions, Nursing, and Law Enforcement loans are, first and foremost, student assistance programs. As such, their purpose is related more to the mission of the Department of Education than their present parent agencies. The benefits which will be realized from the transfer are substantial, both in terms of cost savings and operating effectiveness.

MIGRANT EDUCATION

The committee recommends that the $6.5 million migrant education programs of the Department of Labor be transferred to the Department.

The two programs, High School Equivalency Program and the College Assistant Migrant Program, are funded under Title II of the Comprehensive Employment and Training Act. Their principal objectives are to expand educational and employment opportunities for disadvantaged migrants of school age.

The Committee believes the transfer of these two programs to the department will facilitate the administration of a coordinated and better focused Federal effort to increase the level of education for migrants. The HEW Education Division already has significant programs for migrant education, including the special compensatory education program for children of migrant farmworkers until Title I of the Elementary and Secondary Education Act. Other programs such as Upward Bound and Talent Search are very similar in purpose to the College Assistance Migrant program.

In the past, coordination between the Department of Labor and HEW in the field of migrant education has been weak. The Committee believes the transfer will provide many opportunities to obtain needed research, evaluation, and curriculum development support for these migrant education programs—functions which the Labor Department is not in a position to provide.

COMMITTEE ACTION

The Committee on Governmental Affairs held three days of hearings on S. 210 in the 96th Congress—February 6–8, 1979. Altogether, 25 persons testified.

The committee held one mark-up session on March 14, and ordered the bill favorably reported by a vote of nine members present and five members by proxy—*yea*, and one member present—*nay*.

This action in the 96th Congress supplements 10 days of hearings on the concept in the 95th Congress, with testimony from more than 100 witnesses. The Committee held three mark-up sessions in 1978, and reported S. 991 favorably without objection.

In the mark-up session on S. 210 on March 14, 1979, the Committee adopted two amendments. The first, by Senator Roth, added language to Section 103 of the bill, "State and Local Responsibilities for Education," which further clarified the intent of the Committee to protect the rights and prerogatives of States, their local school systems, and other instrumentalities of the States, and public and nonpublic educational institutions in education policy and program decision-making in the establishment of the Department of Education. The second amendment, offered by Senator Danforth, also amended the language of Section 103 to clarify the intent of Congress in protecting local control of education.

ROLLCALL VOTE IN COMMITTEE

The committee's only rollcall vote on S. 210 was for final passage:[1] Ordered reported: 9 yeas—1 nay.

MARCH 14, 1979

Yeas	*Nays*
Ribicoff	Cohen
Nunn	
Sasser	
Levin	
Percy	
Javits	
Roth	
Danforth	
Durenberger	
(*Proxy*):	
Jackson	
Eagleton	
Chiles	
Glenn	
Pryor	
Stevens	

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[1] Committee rules provide that on "Final Passage" proxies may be allowed solely for the purpose of recording a member's position on the pending question.

Section-by-Section Analysis of S. 210

TITLE I—GENERAL PROVISIONS

Section 101. Statement of findings

Section 101 sets forth the findings of the Congress that (1) education is fundamental to the growth and achievement of the Nation; (2) there is a continual need to provide equal access to education for all Americans; (3) the primary responsibility for education has in the past, and must continue in the future, to reside with the States, the local school systems, and other instrumentalities of the States, and tribal governments, public and nonpublic educational institutions, communities, and families; (4) in our federal system, the primary public responsibility for education is reserved respectively to the States, the local school systems and other instrumentalities of the States, and tribal governments; (5) the dispersion of education programs across a large number of Federal agencies has led to fragmented, duplicative, and often inconsistent Federal policies relating to education; (6) there is a lack of coordination of Federal resources for State, local, and tribal governments and public and nonpublic educational institutions; (7) Presidential and public consideration of issues relating to education is hindered by the present organizational position of education programs in the executive branch of the Government; (8) the importance of education is increasing as new technologies and alternative approaches to traditional education are considered, as society becomes more complex, and as equal opportunities in education and employment are promoted; and (9) therefore, it is in the public interest and general welfare of the United States to establish a Department of Education.

Section 102. Purposes

Section 102 states the purposes of the Department are to (1) enable education to receive the appropriate emphasis at the Federal level; (2) continue and strengthen the Federal commitment to insuring access by every individual to equal educational opportunities; (3) supplement and complement the efforts of States, the local school systems and other instrumentalities of the States, the local school systems and other instrumentalities of the States, tribal governments, the private sector, public and nonpublic educational institutions, public or private nonprofit educational research institutions, community-based organizations, parents, and students to improve the quality of education; (4) encourage the increased involvement of parents, students, and the community in the process relating to education, including the development and improvement of education programs and services; (5) enable the Federal Government to coordinate education activities and programs more effectively through interagency cooperation, technical assistance, and evaluation of program effectiveness; (6) (A) provide assistance in the support of basic and applied educational research; (B) collect and analyze information on the progress and condition of education in the United States; and (C) work with State, local, and tribal officials, public and nonpublic education institutions, community organizations, parents, and students to implement the findings of such research at the local level; and (7) supplement and complement the efforts of State, local, tribal, public, and nonpublic agencies by providing support to the articulated educational needs of such agencies, especially with respect to the simplification of the process, procedures, and administrative structures for the dispersal of Federal funds, as well as the reduction of unnecessary and duplicative burdens and constraints, including unnecessary paperwork, on the recipients of Federal funds.

Section 103(a) (1) states the establishment of the Department of Education shall not increase the authority of the Federal government over education or diminish the responsibility for education which is reserved to the States, the local school systems and other instrumentalities of the States and tribal governments. During mark-up, the Committee expressed its intention to make clear that responsibility for control of education is reserved to the States and their instrumentalities and tribal governments. Thus, the establishment of the Department is not intended to infringe upon the local control of schools nor is it intended to increase the Federal government's authority over education.

Section 103(a)(2) states it is the intention of the Congress in the establishment of the Department of Education to protect the rights of State, local, and tribal governments and public and nonpublic educational institutions in the areas of educational policies and administration of programs, including but not limited to competency testing and selection of curricula and program content, and to strengthen and improve the control of such governments and institutions over their own educational programs and policies. The Department should also recognize the role these governmental bodies have to determine their own methods for raising revenues.

Section 103(b) states nothing in this Act shall be construed to require any particular organization at the State level of any programs transferred to the Department, including vocational rehabilitation programs. This subsection recognizes the diversity of state governance structures and shows the Committee's intent that no particular organizational structure is required at the State level because of the transfer of any particular programs to the Department.

Section 104. Definitions

This section defines terms used in the Act. Such terms include Department; Secretary; Under Secretary; Assistant Secretary; Director (Director of the Office for Civil Rights); Administrator (Administrator of the Office of Education for Overseas Dependents); Council (Intergovernmental Advisory Council on Education); Committee (Federal Interagency Committee on Education); and function.

TITLE II—ESTABLISHMENT OF DEPARTMENT

Section 201. Department of Education

Section 201 establishes as an executive department of the Government, the Department of Education.

PRINCIPAL OFFICERS

Section 202 states the Department shall be administered by a Secretary of Education who shall be appointed by the President, by and with the advice and consent of the Senate. The Secretary shall be compensated at the rate provided for level I of the Executive Schedule contained in section 5312 of title 5, United States Code.

The section establishes and Under Secretary of Education who shall be appointed by the President, by and with the advice and consent of the Senate. The Under Secretary shall have responsibility for the conduct of intergovernmental relations by the Department, in addition to other duties.

The Under Secretary will be responsible for assuring that the Department carries out its functions in a manner which supplements and complements the education policies, programs, and procedures of the States, the local school systems and other instrumentalities of the States, and tribal governments. The Under Secretary will also assure that appropriate officials of the Department consult with the appropriate individuals responsible for making policy relating to education in the States and localities concerning differences over education policies, programs, and procedures and concerning the impact of the rules and regulations of the Department on these governances. The Committee's intention in assigning the Under Secretary the responsibility for intergovernmental relations is to assure an intergovernmental perspective in the Department's overall activities.

The Under Secretary shall perform such duties and exercise such powers as the Secretary shall prescribe. During the absence or disability of the Secretary, or in the event of a vacancy in the office of the Secretary, the Under Secretary shall act as Secretary. The Under Secretary shall be compensated at the rate provided for level III of the Executive Schedule contained in section 5314, United States Code. The section states the Secretary shall designate the order in which other officials of the Department shall act for and perform and functions of the Secretary during the absence or disability of the Secretary and/or Under Secretary.

The section establishes principal officers of the Department: an Assistant Secretary for Special Education and Rehabilitative Services; for Elementary and Secondary Education; for Postsecondary Education; for Occupational, Adult, and Community Education; for Educational Research and Improvement; a Director of the Office for Civil Rights; one additional Assistant Secretary; a General Counsel and an Inspector General. Each of the Assistant Secretaries, the Director of the Office for Civil Rights, the General Counsel and the Inspector General shall be appointed by the President, by and with the advice and consent of the Senate. Each Assistant Secretary, the Director of the Office for Civil Rights, and the General Counsel shall report directly to the Secretary. Each Assistant Secretary, the Director of the Office for Civil Rights, the General Counsel, and the Inspector General shall be compensated at the rate provided for level IV of the Executive Schedule.

The Assistant Secretary appointed pursuant to subsection (c)(1)(G) shall administer the functions of the Department under section 203(11). These functions are concerned with planning, evaluation and coordination administration of the Department and its programs. This Assistant Secretary shall perform such additional duties and exercise such additional powers as the Secretary may prescribe.

Subsection (e) provides for an Administrator of Education for Overseas Dependents. The Administrator shall perform such duties and exercise such powers as the Secretary may prescribe. The Administrator shall be compensated at the rate provided for level V of the Executive Schedule contained in section 5316 of title 5, United States Code.

Subsection (f) provides for one additional officer who shall perform such duties and exercise such powers as the Secretary may prescribe. Such officer shall be compensated at the rate provided for level V of the Executive Schedule contained in section 5316 of title 5, United States Code.

The section states that whenever the President submits the name of an individual to the Senate for confirmation as an officer of the Department under subsections (c) or (d), the President shall state the particular functions of the Department such individual will exercise upon taking office. This provision is not meant to prohibit the Secretary from reassigning duties and functions or from changing such duties or functions of the officer at a later time if it is necessary to do so for the efficient operation or functioning of the Department.

Section 203. Functions of the Department

Section 203 outlines the functions of the Department. It states the function of the Department shall be to promote the cause and advancement of education throughout the United States and shall include—(1) administration of programs pertaining to elementary and secondary education; (2) administration of programs pertaining to postsecondary education; (3) administration of programs pertaining to occupational, adult, and community education; (4) administration of education grants and other programs for which the Department has responsibility under law; (5) administration of programs relating to special education and rehabilitative services; (6) enforcement of the civil rights laws relating to education; (7) intergovernmental policies and relations, including responsibility for assuring Federal education policies and procedures supplement and complement the efforts of State, local, and tribal governments, the private sector, public and nonpublic educational institutions, public or private nonprofit educational research institutions, community-based organizations, and parents to improve their educational programs; (8) administration of schools for the overseas dependents of personnel of the Department of Defense; (9) research, dissemination of improved educational practices and the coordinated collection and dissemination of statistics; (10) public information; (11) planning and evaluation of the programs of the Department, and development of policies to promote the efficient and coordinated administration of the Department and the programs of the Department and to encourage improvement in education; (12) congressional relations, including responsibility for providing a continuing liaison between the Department and the Congress; (13) administration and management of the Department, including responsibility for legal assistance, accounting, personnel, payroll, budgeting, and other administrative functions; and (14) monitoring parental and public participation in programs where such participation is required by law, and encouraging the involvement of parents, students, and the public in the development and implementation of departmental programs.

Section 204. Office for Civil Rights

Section 204 establishes an Office for Civil Rights to be administered by a Director. In light of the importance the Committee attributes to civil rights enforcement in education, the bill provided in section 202 that the Director shall be an executive level IV, appointed by the President with the advice and consent of the Senate, who reports directly to the Secretary. Presently, the Director of Civil Rights is at the level of GS–18. The Secretary shall delegate to the Director all functions of the Office for Civil Rights of the Department of Health, Education, and Welfare relating to education transferred to the Secretary (other than administrative and support functions). The Director shall perform such additional duties and exercise such additional powers as the Secretary may prescribe.

The Office for Civil Rights (OCR) shall be the agency within the Department with the authority to exercise sanctions against recipients found violating non-discrimination provisions, and which are funded by any agency of the Department. This responsibility, however, does not diminish the Secretary's responsibility as the chief policy official of the Department, who must be responsible for civil rights compliance and enforcement.

Section 204 provides that the Secretary shall delegate all civil rights compliance and enforcement functions (other than administrative and support functions) to the Office for Civil Rights. This provision was included to make certain that civil rights enforcement responsibilities are not delegated by the Secretary to any official in the Department other than the OCR Director. An adequately staffed Office for Civil Rights, with complete authority from the Secretary, can ensure that all civil rights laws are enforced in all program units of the new Department.

This prohibition against the Secretary delegating authority to enforce civil rights laws to offices other than the OCR is not intended to limit the Secretary's ability to utilize staff who work in other offices both inside or outside the Department for other functions such as pre-award audits or postgrant monitoring. Clearly, such staff might provide specific expertise necessary to help carry out or lend support to civil rights enforcement activities. However, under section 204(a), such staff must be responsible to the OCR Director for those portions of the Secretary's responsibilities for employing sanctions for noncompliance which they exercise.

Section 204(b) requires the Director for Civil Rights each year to prepare and transmit a report to the President, the Secretary, and the Congress concerning the status of compliance with civil rights laws relating to education. In addition to this status report, the report shall include a statement concerning the OCR's plans and recommendations to ensure improved enforcement of and continued compliance with civil rights laws related to education. The Committee anticipates that this report will identify significant problems of compliance or enforcement which may require oversight by appropriate congressional committees and a description of the specific enforcement activities indicated by OCR during the previous year.

The annual report shall be submitted directly by the Director to the President, the Secretary, and the Congress without clearance or approval by any executive branch official. The Committee views this report as a mechanism to obtain a precise, objective statement of the status of existing and future plans for civil rights enforcement in education. The Director should, however, insofar as feasible, provide a copy of the report to the Secretary sufficiently in advance of its submission to the President and to Congress to provide a reasonable opportunity for the Secretary's comments to be appended to it when transmitted to Congress and the President by the Director.

Section 205. Office of Elementary and Secondary Education

Section 205 establishes in the Department an Office of Elementary and Secondary Education, to be administered by the Assistant Secretary for Elementary and Secondary Education. In addition, the Assistant Secretary for Elementary and Secondary Education shall perform such other duties and exercise such powers as the Secretary may prescribe.

Section 206. Office of Postsecondary Education

Section 206 establishes in the Department an Office of Postsecondary Education. The Office shall be administered by the Assistant Secretary for Postsecondary Education. The Office would assure that the needs and concerns of postsecondary institutions are represented and supported. The Office will develop and coordinate policies and programs designed to improve postsecondary educational opportunities.

The Assistant Secretary for Postsecondary Education shall perform such duties and exercise such powers as the Secretary may prescribe.

Section 207. Office of Occupational, Adult, and Community Education

Section 207 establishes an Office of Occupational, Adult, and Community Education, to be administered by an Assistant Secretary for Occupational, Adult, and Community Education. This Office will be responsible for administering those programs relating to manpower training and development, technical training, and other functions concerned with vocational, occupational, adult, and continuing education. Because of the creation of this new office, the Committee expects the functions and duties previously performed by the Bureau of Occupational and Adult Education to be performed by the new Office.

The Assistant Secretary shall perform such additional duties and exercise such powers as the Secretary may prescribe.

Section 208. Office of Special Education and Rehabilitative Services

This Office will contain the programs administered under the Education of the Handicapped Act, including the programs previously administered by the Bureau for the Education and Training of the Handicapped. In addition, the Office will contain the programs administered by the Rehabilitation Services Administration (RSA), with the exception of vocational rehabilitation services for Social Security disability beneficiaries and vocational rehabilitation services for Supplemental Security Income beneficiaries, or the Developmental Disability programs. The Office will have responsibility for administering the Randolph-Sheppard Act. It will also have transferred to it the functions of the Commissioner of Rehabilitation, the functions of the Director of the National Institute of Handicapped Research of HEW, and the functions of the Office of Information and Resources for the Handicapped. The Assistant Secretary shall also perform additional duties prescribed by the Secretary.

It is the intention of the Committee to create a comprehensive office of consolidated programs for the education of the handicapped. The Committee believes this will initiate the development of an effective policy for the education of the handicapped that will aid handicapped individuals from birth through adulthood.

The creation of this Office will provide the Assistant Secretary an opportunity to efficiently coordinate the programs which were administered by RSA with those which were administered by the Bureau for the Education and Training of the Handicapped.

It is the Committee's expectation that the Assistant Secretary will be a strong advocate for the furtherance of the goal of increasing the ability of handicapped individuals to adapt to society.

Although the Committee strongly believes vocational rehabilitation programs are educationally focused and should be included within the Department of Education at the Federal level, it is not the intention (as stated explicitly in section 103) to change any existing organizational structural requirements for vocational rehabilitation programs at the State level; thus the enactment of this section does not specifically mandate any particular organizational structure of the programs at the State level with respect to the transfer.

Section 209. Office of Education for Overseas Dependents

This section establishes an Office of Education for Overseas Dependent Children, to be administered by the Administrator for Education for Overseas Dependent Children.

The Administrator would carry out the functions transferred to the Secretary from the Department of Defense relating to the Office of Dependents Schools of the Department of Defense and to the operation of schools for dependent children of members of the Armed Forces (other than administrative and support functions).

The Committee expects the Secretary will make available to the Office and the Administrator other resources in the Department for the improvement of the Dependents Schools, including educational research functions, vocational education programs, education of the handicapped services, and other programs for the improvement of academic facilities and personnel.

Section 210. Office of Educational Research and Improvement

Section 210 establishes an Office of Educational Research and Improvement, to be administered by the Assistant Secretary for Research and Improvement. The section states that the Secretary shall delegate to this Assistant Secretary all functions relating to the Fund for the Improvement of Postsecondary Education, those functions transferred which relate to Federal grants for telecommunications demonstrations; and the science education functions transferred intact from the National Science Foundation cited by section 303.

In establishing this Office, the Committee recognizes the important role of the Federal Government in assisting research and development activities which are designed to improve education, public understanding, and the capacities of educational institutions. This Office will integrate and coordinate the wide range of research, development, and demonstration programs.

The programs proposed for inclusion in the new Office are included because their overall missions fit into and would complement the new

Office. Although this section does not specifically place the National Institute of Education into this Office, the Committee feels this placement in appropriate. It recommends that the authorizing committees, in conjunction with reauthorizing legislation for the Fund for the Improvement of Postsecondary Education and the National Institute of Education, consider the renewal for these programs within an organization and decision-making framework which will ultimately enhance the research and improvement role for the Department.

Additionally, the Assistant Secretary shall perform such other duties as the Secretary may prescribe.

Section 211. Office of General Counsel

This section establishes an Office of General Counsel, to be administered by the General Counsel.

The General Counsel shall perform necessary duties with respect to legal assistance to the Secretary concerning the programs and policies of the Department and any other additional duties the Secretary feels are appropriate for this Office.

Section 212. Office of Inspector General

Section 212 establishes in the Department an Office of Inspector General. The Inspector General will be appointed in accordance with the provisions of the Inspector General Act of 1978, which is amended by section 212 to add the Inspector General of the Department of Education.

The Inspector General shall carry out the functions of the Office of Inspector General of the Department of Health, Education, and Welfare relating to education transferred to the Department or the Secretary.

It is the Committee's intent that the Inspector General function be a strong component in the new Department. Since this Department will spend more than $14 billion in Federal moneys, it is the Committee's view that the Inspector General's office actively and thoroughly investigate any abuses or mismanagement of funds.

Section 213. Intergovernmental Advisory Council on Education

Section 213 establishes within the Department an Intergovernmental Advisory Council on Education. The purpose of the Council is to provide assistance and make recommendations to the Secretary and the President concerning intergovernmental policies and relations relating to education.

The functions of the Council are to provide a forum for the development of intergovernmental policies and relations relating to education; make recommendations for the improvement of the administration and operation of Federal education programs and education-related programs; promote better intergovernmental relations; assess Federal policies and make recommendations to ensure effective direction over educational policymaking and program implementation by State, local, and tribal governments and public and nonpublic educational institutions.

The Council is also required to submit a report every 2 years to Congress, the President, and the Secretary which reviews the impact of Federal education policies upon State, local, and tribal governments, and public and nonpublic educational institutions, and assesses the achievement of Federal objectives in education as well as any adverse consequences of Federal actions upon State, local, and tribal governments, and public and nonpublic educational institutions.

The Council would assist the Secretary in conducting conferences and similar activities to assess the contributions of each level of government to the delivery of equitable, high-quality, and effective education.

If the Council wishes, it may review existing and proposed rules or regulations of the Department in order to determine their impact or potential impact on State, local and tribal governments, public and nonpublic educational institutions. The Committee has specifically left this power discretionary in order to allow the Council to concentrate its efforts in this area on those rules and regulations which it determines to have a significant impact on intergovernmental relations.

Whenever the Council reviews rules or regulations of the Department, it may submit to the Secretary a report containing the results of its review and recommending changes to make the rules or regulations more responsive to the needs and concerns of State, local and tribal governments, public and nonpublic educational institutions. The Secretary must respond in writing to such a report within 30 days of its receipt. If the Council's report concerns proposed rules or regulations, it must be submitted to Secretary within the time period and according to the procedures of the Department governing public comment on such rules or regulations. Moreover, in the case of proposed rules or regulations, the Council's report and the Secretary's written response must be placed on the record of the proceeding.

In giving the Council the power to review rules or regulations of the Department and requiring the Secretary to respond in writing to its recommendations, the Committee's intention is to ensure a continuing dialogue between the Council and the Secretary on the effects of the Department's rules and regulations on State, local and tribal governments, public and nonpublic educational institutions. However, the Committee wants to emphasize that the Department should not limit its consideration of intergovernmental relations in the rulemaking process to after-the-fact comments by the Council on rules or regulations that have already been drafted. The Department should seek to bring an intergovernmental perspective to the rulemaking process from beginning to end by consulting frequently both with the Council and with other officials and groups representing State, local and tribal governments, public and nonpublic educational institutions. Section 202. (b)(1) of S. 210 makes it the specific responsibility of the Undersecretary to bring this perspective to the Department's rulemaking process.

The Council's membership shall be composed of twenty-five members. One of its members shall be the Under Secretary of Education. The President shall appoint eight members from among State Governors, legislators, boards of education (both elementary and secondary and postsecondary), and chief education officials (both elementary and secondary and postsecondary); eight members from among local or regional elected general government officials, local boards of education, public and nonpublic school administrators, and tribal governments; two members from among institutions; and six members from among the public, including parents, teachers, students, and public interest groups.

In making appointments to the Council, the President shall consult with a broad cross-section of organizations representative of the groups to be chosen to the Council. These groups include but are not limited to representatives of State and local governmental authorities, school boards and school officials, and education organizations. Such groups to be consulted with might include the National Governor's Association, the National Conference of State Legislatures, the National Association of Counties, the National League of Cities, the United States Conference of Mayors, and the National School Boards Association. This consultation is not limited, however, to the organizations specified. It is the Committee's view that the President should also consult with other groups which are representative of the membership selected to the Council. Such organizations would include educational organizations, citizens' public interest groups, including civil rights groups, tribal organizations and student groups. The committee feels this consultation is important in order to ensure the type of broad-based and geographically balanced representation on the Council which is necessary to carry out its stated objectives in bringing the opinions and ideas of those persons involved in the educational process to the attention of the Department.

Not more than thirteen of the members of the Council may be members of the same political party.

Members of the Council would be appointed for a four-year term.

Any member of the Council may serve on the Council beyond the period that the member holds the elective office which served as the basis of his or her appointment.

The Council shall elect one of its members as Chair of the Council.

Any vacancy in the Council shall not affect its power to function.

The section prescribes that the per diem paid to the Council members will be the equivalent of the daily rate for a GS-18.

The Council is authorized to hold hearings and request the attendance and testimony of witnesses, as well as the cooperation and assistance of other Federal departments, agencies, and instrumentalities.

The Council would have the authority to nominate an executive director for the Council, who would be appointed by the Secretary. The executive director would be compensated at the rate provided for a GS-17. The Secretary should seek the approval of the Council in making the choice of the executive director. In addition, the Secretary is required to provide the Council with additional staff, facilities, and assistance as needed to carry out the Council's activities.

Section 214. Federal Interagency Committee on Education

This section establishes the Federal Interagency Committee on Education to conduct studies and make recommendations in order to assure the effective coordination of Federal programs affecting education.

The committee would be composed of at least 17 members. In order to provide more opportunity for greater coordination, the Secretary could expand this number to include other agencies involved in other education-related programs. One member would be the Secretary, who would be the chairman of the committee. Sixteen members would be representatives of the following departments and agencies: Department of Agriculture, Department of Commerce, Department of Defense, Department of Energy, Department of Justice, Department of Health and Welfare, Department of the Interior, Department of Labor, Department of State, National Aeronautics and Space Administration, National Endowment for the Arts, National Endowment for the Humanities, National Science Foundation, Veterans Administration, Commission on Civil Rights, and Environmental Protection Agency.

The committee believes the coordination of Federal education programs outside the Department with those inside will be a critically important function of the Department and the Secretary. One of the basic reasons for the creation of the Department of Education is to improve coordination of education at the Federal level.

FICE should become a viable, active tool of the Secretary in eliminating duplication of effort between the Department and other Federal agencies. The committee fully expects the Secretary will take an active role in the operation and work of FICE. That is the purpose of naming the Secretary of Education as the chairperson. FICE should be an important mechanism for the conduct of comprehensive studies on the Federal role in education, and where the effort can be streamlined.

The committee further expects the agencies designated to be represented on FICE in the legislation will also take active roles in improving coordination and performance of their education programs. The committee has specifically required these agencies to appoint senior officials involved in policymaking functions to represent them on FICE. FICE will be effective only as long as it has as members individuals who hold significant policy and decisionmaking authority.

Although the bill requires FICE to meet at least twice each year, the committee expects the Secretary will utilize FICE more often, especially in the first 3 years of the life of the new Department, when relationships among the many Federal agencies involved in education are developing and becoming formalized.

This section also mandates FICE to conduct a study concerning the need for improved coordination between all federally funded vocational education and training programs. FICE is required to report its findings to Congress within 2 years. The Committee intends that FICE devote much attention to and conduct an extensive investigation of the relationship between vocational education programs in the Department with other vocational-oriented programs in the Department of Labor. The Committee has been made aware of lack of coordination and duplication of effort between the vocational education and training programs of HEW and the Department of Labor. A strong, coordinated vocational education and training effort is important to the economic growth of the nation.

TITLE III—TRANSFERS OF AGENCIES AND FUNCTIONS

Section 301. Transfers from HEW

Section 301(a) transfers all officers, employees, assets, liabilities, contracts, grants, property, and records as are determined by the Office of Management and Budget Director are to be employed, held, or used primarily in connection with any function of the following agencies, offices, or parts of agencies or offices:

(1) the Education Division of the Department of Health, Education, and Welfare, including the National Institute of Education;

(2) the Office of the Assistant Secretary for Education, including the National Center for Education Statistics;

(3) the Institute of Museum Services of the Department of Health, Education, and Welfare;

(4) any advisory committee in the Department of HEW giving advice and making recommendations principally concerning education;

(5) the Office of Information and Resources for Handicapped Individuals of HEW;

(6) the Rehabilitation Services Administration of HEW, except that portion of such Administration responsible for the administration of the Developmental Disabilities Assistance and Bill of Rights Act;

(7) the National Institute of Handicapped Research of HEW;

(8) the Interagency Committee on Handicapped Research;

(9) the Helen Keller National Center for Deaf-Blind Youth and Adults; and

(10) the National Council on the Handicapped.

Subsection 301(b)(1) transfers to the Secretary all functions of the Department of Health, Education, and Welfare, the Assistant Secretary for Education, or the Commissioner of Education of the Department of HEW with respect to the following:

(*a*) the Education Division of the Department of Health, Education, and Welfare;

(*b*) the Office of the Assistant Secretary for Education, including the National Center for Education Statistics;

(*c*) any advisory committee in HEW giving advice and making recommendations principally concerning education.

Subsection 301(b)(2) transfers to the Secretary all functions of the Secretary of HEW relating to education which are administered through the Office of the Secretary of HEW.

Subsection 301(b)(3) transfers to the Secretary all functions of the Secretary of HEW or the Department of HEW—

(A) Under—

(*i*) the General Education Provisions Act, including the provisions of section 404 of such Act relating to the Fund for the Improvement of Postsecondary Education;

(*ii*) the Emergency School Aid Act (and after September 30, 1979, under title VI of the Elementary and Secondary Education Act of 1965);

(*iii*) the Higher Education Act of 1965;

(*iv*) the Emergency Insured Student Loan Act of 1969;

(*v*) the Act of August 30, 1890 (26 Stat. 417);

(*vi*) title II of the Elementary and Secondary Education Act of 1964;

(*vii*) the Alcohol and Drug Abuse Education Act, except functions under section 5 of such Act;

(*viii*) the International Education Act of 1966;

(*ix*) the National Defense Education Act of 1968;

(*x*) the Education of the Handicapped Act;

(*xi*) the National Commission on Libraries and Information Science Act;

(*xii*) the Vocational Education Act of 1963;

(*xiii*) the Career Education Incentive Act; and

(*xiv*) section 400A of the General Education Provisions Act, relating to the Federal Education Data Acquisition Council.

Subsection 301(b)(2)(B) transfers part B of title V of the Economic Opportunity Act of 1964.

Subsection 301(b)(2)(C) transfers the functions administered by the Secretary or the Office for Civil Rights for the enforcement of civil rights laws and educational orders relating to the functions transferred elsewhere in the bill.

Subsection 301(b)(2)(D) transfers all laws dealing with the relationship between Gallaudet College (including the Model Secondary School for the Deaf), Howard University, the American Printing House for the Blind, and the National Technical Institute for the Deaf, and the Department of HEW.

Through the transfer of these Special Institutions, the Committee intends that the new Department continue to allow these institutions maximum flexibiliy, independence, and autonomy in determining their educational program and system. The Secretary should consider coordinating the oversight of Gallaudet College, National Technical Institute for the Deaf, and American Printing House for the Blind with the Office of Special Education and Rehabilitative Services. Coordination of oversight of Howard University would be best linked with the Office of Postsecondary Education.

Subsection 301(b)(2)(E) transfers functions under subpart A of part IV of title III of the Communications Act of 1934, relating to Federal grants for telecommunications demonstrations;

Subsection 301(b)(2)(F) transfers functions under subparts II and III of part B of title VIII of the Public Health Service Act, relating to the establishment of student loan funds and scholarship grant programs for schools of nursing and under subparts I and II of part C of title VII of such Act, relating to the establishment of student loan insurance and student loan funds for schools of medicine, osteopathy, dentistry, pharmacy, podiatry, optometry, or veterinary medicine.

The Committee intends that these student loans be administered together with other student assistance programs (e.g., BEOG program, National Direct Student Loans, work study) in a single agency within the Department. Strong efforts should be made to reduce and simplify paperwork and other requirements, develop uniform need determination policies, and improve audit and collection systems to reduce defaults and fraud.

Subsection 301(b)(3)(G) transfers the functions being administered under the Rehabilitation Act of 1973, except that the provisions of this subdivision are not intended to transfer vocational rehabilitation services for social security disability beneficiaries, vocational rehabilitation services for supplemental security income beneficiaries, or the developmental disabilities programs. This subsection also transfers the Randolph-Sheppard vending facility program, which is administered by the Commissioner but is not authorized by the Rehabilitation Act of 1973.

Subsection 301(b)(4) transfers to the Secretary all functions of the Commissioner of the Rehabilitation Services Administration of HEW, and the Director of the National Institute of Handicapped Research of HEW under the Rehabilitation Act of 1973.

Subsection 301(b)(5) transfers the functions of the National Institute of Education.

Subsection 301(b)(6) transfers the functions of the Institute of Museum Services.

Subsection 301(b)(7) states nothing in the provisions of this section or in the provisions of this Act shall authorize the transfer of functions under part A of title V of the Economic Opportunity Act of 1964, relating to Project Head Start, from the Secretary of Health, Education, and Welfare to the Secretary.

In describing the functions of the Department of Education, the Committee has attempted to provide a complete list of existing functions now located in HEW that would appropriately be transferred to the Department. The subsection is not intended as a broad authority permitting transfer, by administrative determination, of additional functions up to now clearly associated with health or welfare programs of the Department.

In addition, it is the Committee's intent that prior experience requirements for employees performing specified functions be maintained as Congress intended. Examples are requirements in section 160(b) of the Vocational Education Act of 1963 (20 U.S.C. 2390(b)) that certain individuals performing vocational education functions have prior experience in the fields of junior and community college education, occupational guidance and counseling, and engineering.

Section 302. Transfers of agencies and functions from the Department of Defense

This section provides for the transfer of the Department of Defense overseas dependents schools. This section also authorizes the operation of the dependents schools, which in the past have been authorized only by appropriation legislation, but after July 1, 1979, will be authorized by the Defense Dependents Education Act of 1978, Title XIV of the Education Amendments of 1978. The Secretary is required to develop a comprehensive plan for effecting the transfer of the schools within 1 year of the date of enactment.

The Committee recognizes the operation of the dependents schools will require careful analysis before a plan of transfer can be designed and executed. During this transition, the Congress expects the Secretary of Defense and the Secretary of Education to work closely to assure a smooth transfer of the schools and to avoid and disruption to the education programs conducted in the schools. In addition, section 505(a) of the bill requires that agreements between the schools and the Armed Forces in existence at the time the Department of Education is established shall remain in effect until new agreements are negotiated as part of the planned transfer of the schools.

The administrative reorganization of the schools which is currently underway should continue, and should not be disrupted during the transitional period.

The section requires that the comprehensive plan for transfer include recommendations for increasing the participation of parents, educators, students, school administrators, and military personnel in the operation and development of the schools. The Committee believes it is important to consider the need for the creation of a board or commission, made up of the aforementioned individuals, to guarantee more input in the development of policy and in the operation of the schools by those involved with the educational process. Such a board would operate at the Federal level, and could have responsibilities similar to that of a State board of education. The Committee expects the Secretary will transmit to Congress his or her recommendations, developed after much study and consultation with all affected parties, for the structure and authority of such a board. These recommendations should be contained with the comprehensive plan for effecting the transfer of the schools.

Section 303. Transfers of functions from the National Science Foundation

Subsection (a) transfers certain programs of the National Science Foundation (NSF) or of the Director of the National Science Foundation relating to science education.

It does not transfer programs with respect to graduate fellowships and traineeships, including those encouraging minorities and women to enter scientific and technical careers, integral to the support of scientific research and development; programs concerned with ethical, value, and science policy issues; or those for communicating science information by scientists to nonscientists. Subsection (a) states no mission-oriented research functions or programs of the National Science Foundation nor of any other Federal agency shall be transferred by this Act, except as provided for specifically in the Act.

Subsection (b) authorizes the Secretary to conduct the programs transferred by subsection (a). Only certain existing National Science Foundation science education programs are being transferred; NSF will retain the function and the right to continue its activity in appropriate science education programs. The Secretary is mandated to consult with the Director of NSF, as appropriate, when conducting the programs transferred under this section.

Subsection (c), which is related to subsection (b), assures that NSF retains the authority to institute new programs under section 3(a)(1) of the National Science Foundation Act of 1950, even though certain of its existing programs are being transferred to the new Department.

Section 304. Transfers of programs from the Department of Justice

This section transfers the student loan and grant programs known as the Law Enforcement and Education Program and the Law Enforcement Intern Program from the Department of Justice.

As with those programs transferred under section 301(b)(2)(F), the Committee intends that all student assistance programs be administered in a single agency within the Department. Strong efforts should be made to simplify Federal requirements, develop uniform need requirements, and improve audit and collection systems to reduce defaults and fraud in these programs as well.

Section 305. Transfers of functions from the Department of Housing and Urban Development

This section transfers the administration of college housing loans from the Department of Housing and Urban Development.

Through the transfer, the Committee expects that the present high level of efficiency will be maintained in the administration of the program. The complex legal agreements and procedures used by HUD for the program should not be disrupted by the transfer. The Committee intends that the transfer will not change the existing relationships between HUD and the Federal Reserve Bank, which serves as the fiscal agent for the program. Further, the Committee recommends the Secretary coordinate and administer together the college housing program and the higher education facilities loan and insurance fund in the new Department to facilitate the development of a consolidated assistance program for construction of higher education facilities.

Section 306. Transfers of functions from the Department of Labor

This section transfers all functions of the Secretary of Labor or the Department of Labor under section 303(c)(2) of the Comprehensive Employment and Training Act. These programs are the High School Equivalency Program and the College Assistance Migrant Program.

Section 307. Transfer of the Advisory Council on Education Statistics

This section transfers personnel, assets, and functions of the Advisory Council on Education Statistics.

Section 308. Effects of transfers

Any function of an officer or agency transferred will include any aspect vested in a subordinate of the officer or in a component of the agency.

TITLE IV: ADMINISTRATIVE PROVISIONS—PART A: PERSONNEL PROVISIONS

Section 401. Officers and employees

Section 401 authorizes the Secretary to appoint and fix the compensation of such officers and employees, including attorneys, as may be necessary to carry out the functions of the Secretary and the Department. Except as otherwise provided by law, such officers and employees shall be appointed in accordance with the provisions of title 5, United States Code, governing appointments in the competitive service, and compensated in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title.

Subsection (b)(1) states subject to the provisions of chapter 51 of title 5, United States Code, but notwithstanding the last two sentences of section 5108(a) of such title, the Secretary may place in grades GS-16, GS-17, and GS-18 all positions in such grades assigned and employed on February 1, 1979, in connection with functions transferred under this Act. This is subject to the limitation of the first sentence of section 5108(a) of such title, which places a limit on the maximum number of positions which may at one time be placed in GS-16, 17 and 18 positions and the Senior Executive Service.

Subsection (b)(2) states appointments under this subsection may be made without regard to the provisions of section 3324 of title 5, United States Code, relating to the approval by the Office of Personnel Management of appointments in grades GS–16, GS–17, and GS–18. This provision applies if the individual placed in the position is transferred to the Department in connection with a transfer of functions under this Act and, immediately before the effective date of this Act, held a position involving duties comparable to those of such position.

Subsection (b)(3) states notwithstanding the second sentence of section 3104 of title 5 of the United States Code (which states the Director of the Office of Personnel Management must establish the number of scientific or professional positions), the Secretary may establish within the Office created by section 210 of this Act all scientific, professional, and technical positions outside the General Schedule assigned and employed on the day preceding the effective date of this Act in connection with functions, offices, and programs transferred under this Act.

Subsection (b)(4) states the authority of the Secretary to appoint personnel without regard to sections 3104, 3324, and 5108(a) of title 5, United States Code, shall cease with respect to any position when the person first appointed to fill such position no longer holds such position.

Subsection (b)(5) states for purposes of section 414(a)(3)(A) of the Civil Service Reform Act of 1978, an individual appointed under this subsection shall be deemed to occupy the same position the individual occupied on the day before the effective date of this Act.

Subsection (c)(1) states the Secretary may appoint, without regard to the provisions of title 5 of the United States Code governing appointment in the competitive service, scientific, technical, or professional employees to serve in the Office created by section 210 of this Act in a number not to exceed one-third of the total number of employees of such Office and may compensate employees so appointed without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates. The rate of basic compensation for such employees shall not be equal to or in excess of the rate of pay currently paid for GS–16 of the General Schedule under section 5332 of title 5, United States Code.

Subsection (c)(2) states subject to section 3134 of title 5 of the United States Code (concerning limitations on noncareer and limited appointments), but notwithstanding any other provision of law, the Director of the Office of Personnel Management shall establish positions within the Senior Executive Service for fifteen limited term appointees. The Secretary shall appoint individuals to such positions as provided by section 3394 (concerning career and limited appointments) of title 5 of the United States Code. Any such position shall expire on the latter of the date which is three years after the effective date of this Act or three years after the initial appointment to that position.

Subsection (d) states section 5108(a) of title 5, United States Code, relating to classification of positions at GS–16, GS–17, and GS–18, is amended by stiking out "10,777" and inserting in lieu thereof "10,840."

Subsection (e) states nothing in this Act shall be construed to prevent the application of any Indian preference law in effect on the day before the date of enactment of this Act to any function transfered by this Act and subject to any such law on the day before the date of enactment of this Act. Any function transferred by this Act and subject to any such law shall continue to be subject to any such law.

Subsection (f)(1)(A) states the Secretary is authorized to accept voluntary and uncompensated services without regard to the provisions of section 3679(b) of the Revised Statutes (31 U.S.C. 665(b)), provided such services will not be used to displace Federal employees employed on a full-time, part-time or seasonal basis.

Subsection (f)(1)(B) authorizes the Secretary to accept volunteer service in accordance with the provisions of section 3111 of title 5, United States Code. The Secretary is also authorized to provide for incidental expenses, including but not limited to transportation, lodging, and subsistence for such volunteers. The subsection states an individual who provides voluntary services under paragraph (1)(A) of this subsection shall not be considered a Federal employee for any purpose other than for purposes of chapter 81 of title 5, United States Code, relating to compensation for work injuries, and of chapter 171 of title 28, United States Code, relating to tort claims.

Subsection (g) provides that where personnel of the Overseas Dependents Schools are currently protected and given special benefits under agreements with host foreign nations, they shall continue to receive such protection after the transfer of the Schools to the Department. The Committee intends that this provision apply to any and all agreements between the U.S. government and a foreign nation or international organization (such as the North Atlantic Treaty Organization) which curently classify overseas personnel for the Schools as the civilian component, or some such similar classification, and which convey special status or benefits on such personnel. The Committee fully intends that all such benefits, such as but not limited to exemptions from local taxation, customs duties, lawsuits by foreign nationals, and other special privileges concerning mail and motor vehicle operation, be maintained and unaffected by the transfer.

Section 402. Experts and consultants

This section allows the Secretary to obtain the services of experts and consultants.

Section 403. Annual authorization of personnel

This section states that notwithstanding any other provision of this Act, Congress shall authorize the end strength as of the end of each fiscal year for personnel for the Department. Except as provided in subsection (b)(1) for the fiscal year beginning October 1, 1979, and ending September 30, 1980, Congress shall authorize the end strength for any fiscal year by prescribing the maximum number of personnel that may be employed by the Department on the last day of such fiscal year. No funds may be appropriated for any fiscal year for personnel for the Department unless the Department's end strength for that fiscal year has been authorized by law. The Secretary shall prescribe the end strength among the Department's offices and agencies.

Except as provided in subsection (b)(2), the Secretary shall, within one hundred and twenty days after the enactment of legislation authorizing the end strength for personnel of the Department for any fiscal year, report to Congress on the allocation of such personnel among the offices and agencies of the Department. The report shall include explanations and justifications for the allocations of personnel.

In computing the authorized end strength for personnel of the Department for any fiscal year, there shall be included all direct-hire and indirect-hire personnel employed to perform functions of the Department whether employed on a full-time, part-time, or intermittent basis. Special employment categories for students and disadvantaged youth, including temporary summer employment, would be excluded.

The section states whenever any function, power, duty, or activity is transferred or assigned in any fiscal year after the effective date of this Act to the Department, the end strength for personnel authorized for the Department for such fiscal year shall be adjusted to reflect any increases or decreases in personnel required as a result of such transfer or assignment.

Subsection (b)(1) states for the fiscal year beginning October 1, 1979, and ending September 30, 1980, the Department is authorized an end strength for personnel equal to the sum of the number of personnel to be employed by the Department under the authorizations provided by other sections of this Act, and the number of personnel transferred under authority of this Act, during such fiscal year, as determined by the Director of Management and Budget. If the Secretary determines such action is necessary for the effective administration of the Department, the Secretary may employ additional personnel during such fiscal year in excess of the number authorized under the preceding sentence, but the number of such additional personnel may not exceed 1 percent of the number so authorized.

The subsection requires the Secretary to prepare and transmit the report on the allocations of personnel in the Department within one hundred and twenty days after the effective date of this Act.

PART B—GENERAL PROVISIONS

Section 411. Authority of the Secretary

This section provides that where a function is transferred to the Secretary, there are available to the Secretary the same authorities for carrying out the function that were available to the agency or officer from which the function was transferred.

Section 412. Delegation

Section 412 authorizes the Secretary to delegate functions to other officers and employees of the Department and to authorize them to delegate such functions further (unless the act provides otherwise). The delegation of the Secretary's authority to another officer or employee does not relieve the Secretary of ultimate responsibility for the exercise of the function, nor is this section intended to be inconsistent with the requirements for redelegation of functions provided for in section 413.

Section 413. Reorganization

Section 413 contains provisions governing reorganization of offices and functions within the Department.

Subsection (a) generally authorizes the Secretary to allocate or reallocate functions among the officers of the Department and to establish, consolidate, alter, or discontinue organizational entities within the Department that may be necessary or appropriate. This authority is allowed with certain exceptions stated in this section. The reorganization must be consistent with section 202(g) of this act which requires the President, in submitting nominees to executive-level positions established in the bill, to state the particular functions of the Department the individual will exercise upon taking office. This reorganization authority is subject to section 202(g) to ensure that functions required to be performed by a particular officer by this act will continue to be performed by such officer even if the Secretary choose to reorganize the Department.

Except for the procedure provided for by subsection (b), section 413 does not allow the Secretary to allocate or reallocate functions or to establish, consolidate, alter, or discontinue organizational entities within the Department if such entities or functions with respect to such entities are established by statute. The abolition of organizational entities established by this act and the alteration or the delegation of functions under this act to any specific organizational entity is also prohibited.

Subsection (b) provides an exception with respect to the following offices and the functions attached to those offices named: Office of Bilingual Education; Teacher Corps; Community College Unit; National Center for Education Statistics; Office of Consumers' Education; Office of Libraries and Learning Resources; Office of Indian Education; Office of Career Education; Office of Non-Public Education; National Institute of Education; Office of Environmental Education; Institute of Museum Services; and administrative units for guidance and counseling programs, the veterans' cost of instruction program, and the program for the gifted and talented children.

In the case of the offices listed, the Secretary could not alter, consolidate, or discontinue any organizational entity or reallocate any function vested by statute in such an entity unless the Secretary notifies the Senate Committee on Labor and Human Resources and the House Committee on Education and Labor 90 days in advance of such action. The notice must contain a full and complete statement of the action proposed to be taken pursuant to the reorganization and the supportive facts and circumstances justifying such a proposed action.

Subsection (c) provides that on the effective date of the Act, the Education Division of the Department of Health, Education, and Welfare, including the Office of Education, the Office of the Assistant Secretary for Education, the Bureau for the Education and Training of the Handicapped, and the Bureau of Occupational and Adult Education of that Department, shall lapse.

The purpose of this section is to give the Secretary specifically stated flexibility with respect to certain offices, all previously existing within the Department of Health, Education, and Welfare and transferred to the Department of Education. Under normal circumstances, the

Secretary would be prevented from reorganizing or reallocating functions where Congress has specifically provided that such functions be performed by particular entities created by legislation. The Committee was concerned that any flexibility given to the Secretary pertaining to a reorganization of functions or offices created by statute be subject to review through the legislative process or subject to reorganization plan. However, a limited exception is stated in this section, which provides for certain flexibility on the part of the Secretary with respect to the offices or units named in the section. This limited authority does not extend to the abolition of functions under any circumstances and gives the Secretary some flexibility to reorganize certain functions within the Department due to the fact that a new structure has been established by the bill and that existing functions or units might not be placed appropriately in the context of the new Department, if the Secretary is not provided some flexibility.

Section 414. Reporting relationships

This section gives the Secretary flexibility, consistent with section 413, with regard to reporting relationships with subordinate officers. Subsection (a) provides (subject to the limitations of section 413, but notwithstanding the General Education Provisions Act (20 U.S.C. 1221 et seq.) or any other act) that any officer or employee of the Department whose functions are transferred by the act and who was previously required to report to either the Commissioner of Education or the Assistant Secretary for Education of HEW will report to the Secretary. Subsection (b) authorizes the Secretary to delegate any such reporting requirement to any other officer or employee of the Department.

Section 415. Rules

This section authorizes the Secretary to prescribe rules and regulations in connection with the functions of the Secretary of the Department. The promulgation of rules and regulations will be subject to the requirements of chapter 5 of title 5, United States Code (the Administrative Procedure Act).

Section 416. Contracts

This section allows the Secretary to enter into and perform contracts, grants, leases, cooperative agreements, or other similar transactions to the extent and to the amount provided for in advance under appropriate acts.

Subsection (b) provides that the restricting of contracting and related authority to those funded in advance by appropriations is not intended to apply to existing programs, nor to existing contract authorities under existing law. Laws granting specific contract authority also will continue to apply.

Section 417. Technical advice

This section authorizes the Secretary to provide technical assistance with respect to any program or function of the Secretary or the Department. The Secretary must also provide, upon request, technical assistance to any State desiring to develop comprehensive plans applicable to two or more programs administered by the Department.

Section 418. Regional and field offices

The Seretary may establish, maintain, alter, or discontinue regional or other field offices.

Section 419. Acquisition and maintenance of property

This section allows the Secretary to acquire and maintain schools and related facilities and accommodations for employees of the Department and their dependents only to the extent the facilities are of a special purpose and nature that cannot readily be reassigned for similar Federal activities and are not otherwise available for assignment to the Department by the Administrator of General Services.

Section 420. Facilities at remote locations

This section authorizes the Secretary to provide various services (such as medicine, food and dining facilities) to employees and their dependents stationed at remote locations when these services are not otherwise available.

Section 421. Use of facilities

This section grants the Secretary the power to use the research equipment, services, and facilities of the United States or of any State, Indian tribe, or tribal organization, or foreign government, with its consent.

Subsection (a)(2) provides that personnel of the overseas Dependents Schools shall continue to be classified as employees of the Department of Defense so that they may continue to have access to facilities and benefits provided by DOD. The Committee intends that this apply to any and all benefits which the overseas Schools personnel now receive. Currently, overseas Schools personnel enjoy the use of such facilities as, but not limited to, exchanges, clubs, commissaries, hospitals, and housing. In a foreign country, these services provided by the military are often the only services available to the School's personnel. The Committee believes it essential that such personnel continue to have access to these facilities and all other benefits presently provided them, and they should not be disrupted in any way during the transfer of the Dependents Schools to the Department.

The Secretary may also permit various entities to use the Department's property for Department purposes.

Section 422. Copyrights and patents

This section authorizes the Secretary to acquire copyrights, patents, licenses, and releases for the Department's use.

Section 423. Gifts and bequests

This section allows the Secretary to use gifts for the purpose of aiding or facilitating the work of the Department.

Section 424. Working capital fund

This section authorizes the Secretary to establish a working capital fund for common administrative services.

Section 425. Funds transfer

When the Secretary is authorized in an appropriations act he or she may transfer funds from one appropriation to another within the Department as long as no appropriation either increases or decreases by more than 5 percent and no transfer results in increasing the appropriation above the amount authorized.

Section 426. Seal of Department

This section provides for the Secretary to approve a design for a seal for the Department.

Section 427. Annual report

Section 427 requires the Secretary, as soon as practicable after the end of each fiscal year, to prepare and transmit a report to the President for transmission to the Congress concerning the activities of the Department during that fiscal year. The report will include a statement of the goals, priorities, and plans for the Department which are consistent with the findings and purposes of this Act, contain an assessment of the progress made during that fiscal year and anticipated future progress toward the attainment of the goals, priorities, and plans for the Department specified in the findings and purposes; the effective and efficient management of the Department; and the coordination of the function of the Department.

In addition, the Secretary is required to comment in his Annual Report on the progress he has made in reducing excessive and burdensome regulations and unnecessary duplication and fragmentation in Federal education programs. He is also requested to make legislative recommendations to accomplish these goals.

The Senate Committee on Labor and Human Resources is presently conducting a study on the possible effects of a proposed consolidation of certain educational programs. This Committee believes that this study is a proper step in the consideration of measures which look toward the improvement of educational services to our nation's youth and adults. This Committee instructs the Secretary of Education to work closely with the Senate Committee on Labor and Human Resources and the House Committee on Education and Labor to develop proposals which will eliminate unnecessary duplication of programs, paperwork and regulations while maintaining effective and strong efforts to equalize educational opportunities for our citizens and provide needed service for our nation's youth. The Committee believes that it is important that the new Department of Education with its Cabinet-level Secretary stimulate a much needed discussion on the future course of our educational programs.

The report will also analyze objective data concerning changing trends in education and areas of critical concern such as education of the disadvantaged and education in rural and urban areas.

In addition, the report will include budget projections for the 5 fiscal years succeeding the fiscal year for which the report is made, and it will contain a separate section on the recommendations for the fiscal year for which the report is made of the Federal Interagency Committee on Education regarding the improvement of the coordination and development of Federal education programs.

Section 448 of the General Education Provisions Act allows the Commissioner to submit within the Commissioner's annual report recommendations for the abolition or combination of advisory committee functions. Since section 427 is a successor to the Commissioner's annual report, the Committee expects the Secretary will submit to the Congress any such recommendations on advisory committees in the annual report.

In preparing and developing this report the Secretary shall, to the maximum extent practicable, consult with members of the public. Within 90 days after the issuance of the report, the Secretary will hold public hearings. In the course of the Secretary's consultation, the Secretary may reimburse any person for expenses reasonably incurred if such person has made or is likely to make a material contribution to the work of the Department or could not otherwise participate fully and effectively in the consultation.

Section 428. Relationship to General Education Provisions Act

Section 428 provides the General Education Provisions Act shall apply only to functions transferred by this act to which the GEPA applies immediately prior to the date of enactment (except where inconsistent with the provisions of this Act).

Section 429. Authorization of appropriations

This section authorizes to be appropriated whatever sums may be necessary to carry out the provisions of this act to enable the Secretary to administer and manage the Department.

TITLE V.—TRANSITIONAL, SAVINGS, AND CONFORMING PROVISIONS

Section 501. Transfer of allocations of appropriations and personnel

Section 501(a) provides that all personnel, assets, liabilities, contracts, property, records, and unexpended sums connected with the functions transferred by this act are also transferred. Unexpended funds would be used only for the purposes for which they were originally authorized and appropriated.

Subsection (b) provides positions expressly specified by statute or reorganization plan to carry out functions transferred by this Act, the personnel occupying those positions on the effective date of this Act, and the personnel authorized to receive compensation in those positions at the rate prescribed for offices and positions at level I, II, III, IV, or V of the Executive Schedule on the effective date of this act, will be subject to the provisions of section 503 of this Act.

Section 502. Effect on personnel

Subsection (a) provides the permanent positions transferred would not be reduced in grade nor would they be separated or reduced in grade or compensation for at least 1 year (unless stated otherwise in the act).

Subsection (b) further provides that a person who held a position compensated in accordance with the Executive Schedule and who is appointed in the Department to a position having duties comparable to those he or she performed immediately preceding the appointment will be compensated at least at the same rate as he or she was at the previous employment.

Section 503. Agency terminations

If the functions of an agency, commission, other body, or component thereof have been terminated or transferred, the agency, commission, other body, or component would terminate unless otherwise provided in this Act. If this termination occurs, each position and office within the terminated unit would also terminate.

Section 504. Incidental transfers

The Director of the Office of Management and Budget (OMB) is authorized and directed to make any incidental dispositions of personnel, assets, liabilities, grants, contracts, property, records, and unexpended funds, as may be necessary to accomplish the purposes of this act. The Director of OMB will provide for the termination of the affairs of all agencies, commissions, offices, and other bodies terminated by this Act and for whatever further measures and dispositions as may be necessary to effectuate the purposes of this Act.

This section is not intended to authorize the transfer of any major program authorities not specified in the bill. The provision is designed to cover functions that are necessary to carry out the provisions of the law for the creation of the new Department.

Section 505. Savings provisions

Subsection (a) provides any orders, determinations, rules, regulations, permits, grants, contracts, certificates, licenses, and privileges which are in effect at the time of enactment will continue in effect until their proper termination or modification. The Committee intends that this provision apply also to the interservice agreements between the Office of Dependents Education and the military departments for the support, operation, and maintenance of the overseas Dependents Schools. The Committee expects these agreements will continue without disruption and with full cooperation between the Department and all agencies and offices of the Department of Defense.

Subsection (b) provides any proceeding, or application for a license, permit, certificate, or financial assistance affecting a function which is transferred will continue after the transfer. The Secretary is also authorized to promulgate regulations providing for the orderly transfer of proceedings continued under this section.

This section also provides the transfer of any functions by this Act would not affect any pending suit. If the suit was against an officer in his official capacity, that officer would be replaced as a party to the suit by the appropriate official of the new Department.

Section 506. Separability

This section provides if any provision of this Act, or its application to any person or circumstance is held invalid, neither the remainder of this act nor the application of the provision to other persons or circumstances would be affected.

Section 507. Reference

Any Federal law which refers to a governmental unit the functions of which are transferred to this Department would be deemed to refer to the component of this Department in which this Act vests those functions.

Section 508. Technical amendments

This section makes technical amendments in various acts. For example, the Secretary of Education is added to the list of successors to the Presidency, the Department of Education is added to the list of Executive Departments, and the Executive level officers provided for in this Act are added to title 5 of the United States Code.

Section 509. Amendment to the Comprehensive Employment and Training Act

This section amends section 306 of the Comprehensive Employment and Training Act of 1973 to read "Consultation with the Secretaries of Education and of Health and Welfare." It provides for the Secretary of Labor to consult with the Secretary of Health and Human Services concerning services of a health or human services character.

The Secretary of Labor would consult with the Secretary of Education concerning services of an educational nature under the act. The Secretary of Education would solicit advice from State educational agencies with respect to education services.

The Secretary of Labor would obtain the approval of the Secretary of Education when arranging for the provision of basic education and vocational training directly.

The section also amends the Comprehensive Employment and Training Act of 1973 to allocate an amount equal to not less than 4⅝ percent of the amount allocated pursuant to section 202(a) of the Comprehensive Employment and Training Act.

Section 510. Amendments to the Elementary and Secondary Education Act of 1965

A new sentence is added to the end of section 103(c)(2)(B) of the Elementary and Secondary Education Act of 1965. The sentence will read:

> The Secretary of Health and Human Services shall transmit the information required by this subparagraph to the Secretary of Education not later than February 1 of each year.

Section 511. Amendments to the Defense Dependents' Education Act of 1979

This section makes several amendments to the Defense Dependents Education Act of 1978 to conform the Act to the transfer of the Dependents Schools to the Department, and to broaden participation by parents and citizens in the development of educational policy and programs.

The Committee intends that the level of parent, teacher, student, and school administrator participation increase with the transfer of the school system to the Department. The Committee has recommended in this report that the Secretary and the Advisory Council on Dependents Education carefully study the concept of transferring, after the three-year phase-in period, authority of the schools to local, regional, and national-level board of education, much in the same way public education policy is determined by boards of education in the continental United States.

These amendments broaden participation in the local advisory councils and the national-level Advisory Council on Dependents Education to include members of professional organizations, school administrators, representatives of parent organizations, and students.

Because the average term of duty overseas is three years, the Committee believed it would be inappropriate and cumbersome that members of the Advisory Council serve three years, as required by the Defense Dependents Education Act. The term of membership for the advisory council was consequently reduced to two years.

The amendments also increase the responsibilities of the Advisory Council on Dependents Education to include advising the Secretary on the gradual, three-year phase-in and transfer of the Dependents Schools to the Department of Education. The Committee expects this will be an important responsibility of the Council, and that their recommendations will weigh heavily in the Secretary's decisions.

The Committee fully intends that the provisions of this section take effect on the effective date of this Act to establish the Department of Education and that, if necessary, the Secretary consult with the President and the Secretary of Defense on the procedures for reappointing the Advisory Council on Dependents Education in accordance with the provisions of this Act.

Section 512. Redesignation

This section redesignates the Department of Health, Education, and Welfare as the Department of Health and Human Services.

Any reference to Health, Education, and Welfare would refer to Health and Human Services.

Section 513. Transition

The Secretary may utilize the services of personnel of the Executive branch to facilitate the orderly transfer of functions under this act as long as the Secetary receives the consent of the appropriate department or agency head concerned.

TITLE VI. EFFECTIVE DATE AND INTERIM APPOINTMENTS

Section 601. Effective date

This Act takes effect 180 days after the Secretary first takes office, or earlier if the President so prescribes. However, officers may be nominated and appointed and the Secretary may promulgate regulations any time after the date of enactment.

Subsection (b) allows funds available to any department or agency (or official or component thereof) for which functions are transferred to the Secretary to be used for the compensation and expenses of any officer appointed pursuant to this Act until funds are otherwise available. The use of such funds would be subject to the approval of the Director of the Office of Management and Budget.

Section 602. Interim appointments

If an officer has not entered office by the time this Act is effective, the President may designate an acting officer for 120 days or until the office is filled, whichever comes first.

EVALUATION OF REGULATORY IMPACT

Paragraph 5(a) of Rule XXXIX requires each report accompanying a bill to evaluate the regulatory impact which would be incurred in carrying out the bill.

S. 210 creates a Cabinet-level Department of Education in the Federal government. The bill's main purpose is to reorganize the Federal government to improve governmental efficiency, management, and coordination.

The legislation provides for no new regulatory authority. The Committee believes the creation of the Department of Education will not have any new regulatory impact on the provision of Federal education programs and services. All existing rules and regulations of the programs and offices transferred to the new department will also be transferred.

However, the Committee expects the creation of the Department of Education will be a productive step forward in the drive to reduce burdensome Federal rules and regulations. Through the establishment of the department, the Committee expects a new awareness and sensitivity on the part of the Department and the Secretary of Education towards the primary role in education held by States, their local schools systems, and public and nonpublic educational institutions. Burdensome and unreasonable regulations threaten that delicate intergovernmental relationship and partnership. Reduction of needless regulation and paperwork should be one of the highest priorities of the Secretary of Education.

With this in mind, the Committee added last year to the responsibilities of the Intergovernmental Advisory Council on Education the authority to review existing or proposed rules or regulations of the Department for their impact on States and local governments, and public and nonpublic institutions. The Committee believes the Intergovernmental Council could perform an extremely useful and valuable service in conducting its independent review of these regulations.

ESTIMATED COST OF THE LEGISLATION

Pursuant to section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has reviewed the cost implications of S.210.

Based on this review, the Director of the CBO estimates the cost of the bill will be: $5.177 million in Fiscal Year 1980; $7.451 million in Fiscal Year 1981; $9.931 million in Fiscal Year 1982; $9.164 million in Fiscal Year 1983; and $9.626 million in Fiscal Year 1984.

In removing the "E" from HEW, the Committee has gone to great lengths to minimize the costs and maximize the savings—both for the short and long terms. Combining the more than 170 Federal education programs transferred to the Department in S.210, the total budget of the existing programs will exceed that of five existing Cabinet departments. However, the new Department of Education will have fewer assistant secretaries, fewer executive level positions, fewer supergrade positions, and fewer full-time permanent positions than any other Cabinet department.

Further, the Committee takes particular note of the projections of the Director of the Office of Management and Budget that creating the new Department of Education is expected to result in a savings of more than $100 million. There will be immediate savings—more than enough to offset the costs estimated above the CBO—in the elimination of some 350–450 positions in HEW. Presently, there is a tremendous amount of staff duplication up through the many layers of HEW. Creation of the Education Department wipes out at least four layers and replaces it with one.

The Committee hopes the Congress will continue to keep a watchful eye on any future growth of personnel in the new Department by fully exercising its authority under Section 403, "Annual Authorization of Personnel." This section mandates that Congress shall authorize the end strength of each fiscal year for personnel employed by the Department of Education.

Cost containment for the new Department is as important an objective as the intent to provide education with the priority needed to insure its appropriate attention, and in fact, is desirable in terms of management, efficiency, and accountability in the Federal involvement in the educational process.

ADDITIONAL VIEWS OF MR. SASSER

When S. 210, The Department of Education Organization Act, was introduced in the Senate, I stated that my support for the new department was based primarily on its potential to improve the management of Federal education programs. Toward that end, I would like to draw attention to the need for improvement in the financial management systems which currently exist at the Office of Education generally and, specifically, regarding the deficiencies in unresolved internal agency audit reports, the unacceptable level of outstanding accounts receivable and the poor financial controls of the Student Loan Insurance Fund.

During hearings on S. 210, the Office of Management and Budget, in response to questions I posed about General Accounting Office reports of large numbers of unresolved internal agency audit reports at the Office of Education, stated that there were 1,069 unresolved audits from the Office of Education in March of 1977, questioning tens of millions of dollars. Most were over six months old. The situation had not improved markedly by December of 1978, when there were still 583 unresolved Office of Education audits. The OMB has, however, assured the Senate Governmental Affairs Committee that the agency intends to be directly involved in the development of a more effective audit function for the Department of Education.

The OMB also responded to my questions regarding the Comptroller General's report that more than $4 billion in accounts receivable are now outstanding for the Office of Education. This figure, incidently, equals roughly one-third of the current Office of Education annual budget. The OMB has come to recognize that the current amount of outstanding debt is unacceptable. The OMB has assured the Committee that the Department of Education will develop an improved system tailored specifically to the education loan and grant programs which would have the capability of monitoring the loan accounts more closely and recovering funds more rapidly than is now the case with HEW.

The third area of concern about which I questioned OMB relates to their plans to improve deficiencies identified by the Comptroller General in a series of seven reports over the past ten years in the area of financial controls for the Student Loan Insurance Fund. The OMB indicated that the Office of Education is now looking at recommendations about improving the Student Loan Insurance Fund accounting system which were developed by an Office of Education Task Force.

In general, the OMB has given assurances that in its efforts to deal with the transition of programs to the new department, it will develop more effective financial management systems for the Department of Education than those which now exist at the Office of Education. It is obvious that in the past the financial management of these programs has been inadequate and management has exerted too little control.

96

I am hopeful that the new department will significantly improve the overall financial management of these programs and that the Committee on Governmental Affairs will hold the appropriate administration officials accountable for the assurances they have given in testimony before the Committee.

JIM SASSER.

ADDITIONAL VIEWS OF MR. STEVENS

Although I am a recent cosponsor of the Department of Education bill, I withheld my cosponsorship until the Committee withdrew the study provision on the possible transfer of Indian Education programs from the Bureau of Indian Affairs to the Department of Education.

I objected to this provision for a number of reasons. First, numerous studies have already been conducted in this area. The General Accounting Office has conducted ten studies in the last three years on the condition of Indian Education with recommendations for improvement. These studies have cost the taxpayers a total of $746,171.

Secondly, the Elementary and Secondary Education Act Amendments which passed Congress late last Session, requires many reforms in the way the Bureau operates its schools. The BIA has not yet had a chance to implement reforms. It is too early to measure their success or failure at the present time.

Finally, the most important reason for not including the study provision in this bill is that the Indians simply do not want it. They have made it clear that they want Indian Education to remain with the BIA. If we had ignored their wishes, we would have been violating that landmark piece of legislation—the Indian Self-Determination Act.

Ted Stevens.

ADDITIONAL VIEWS OF MR. DURENBERGER

I have three concerns related to the establishment of a federal Department of Education.

(1) As the Committee Report notes, the federal presence in education should be "*supportive* (emphasis added), helpful and effective." The federal role is one of assistance, not direction for State and local governments. This Act is a small step towards thorough reform and redirection of federal educational efforts in discharging its responsibility for ensuring equality of educational opportunity for all Americans. Ideally, federal support to education should be on a block grant and/or voucher basis. Unfortunately, the federal department created by this legislation continues to rely on targeted education programs. The Committee on Governmental Affairs does not have control over program content, so we cannot make necessary revisions in the structure of federal educational programs. However, we do have the responsibility to ensure that a new federal department does not interfere in the rights and responsibilities of State ond local governments.

The States have a rich mixture of programs to respond to their citizens' educational needs. A centralized approach to education would be fatal to this diversity. This is, perhaps, a potential threat posed by a cabinet-level Department of Education. However, it is the responsibility of the Congress to limit federal involvement in education. If Congress does not exercise proper oversight, State and local jurisdiction over education will be threatened by the federal government regardless of whether education is in a new department or remains a division of an existing department. The Committee draft does contain strong language to protect rights of States and their local school systems. There is one additional step which should be taken to guarantee State and local educational autonomy. My next point will outline this step.

(2) There is an effective antidote for the proliferation of federal programs and centralized government. The remedy is sunset legislation. The Act to create a new federal Department of education provides an opportunity to enact the most effective, and final, form of regulatory reform, sunset. All too often, we spend our time evaluating requests for expansion of federal programs. We do not review the basic premise of the programs—objectives, need, efficiency, and effectiveness. Despite the best intentions of legislators, programs continue to expand regulations, paperwork and controls. We are faced with the inherent aggrandizement common to any bureaucracy. Sunset is the appropriate foil to bureaucratization.

We should consider sunsetting the Department of Education ten years after the enactment of this Act. Such a provision will require Congress to review the effectiveness of the Department and serve as a reminder to the bureaucracy of their purpose and limits. They will be less willing to erect cumbersome administrative procedures (regulations and paperwork), and they will be hesitant (appropriately so) to interfere with State and local authority.

Congress should also periodically review the programs under the new Department of Education. There are at least two provisions to assist in meeting this responsibility. The first is an amendment to provide for departmental accountability. This embodies the substance of title VI (Government Accountability) of Senator Muskie's Sunset Act of 1979. This would require a biennial management report on the effectiveness of each program in the Department. Programs would be rated as "excellent," "adequate," or "unsatisfactory" along with justification for each rating. Congress would have an index performance for each program. Senator Percy will pursue this proposal as a separate bill before the Governmental Affairs Committee.

The second procedure would provide a sunset mechanism for each program under the Department of Education. There would be two parts. The first would deal with entitlement programs. All entitlements would be removed from the jurisdiction of the Department five years after S. 210 becomes law. In addition, continued entitlements would be subject to removal every succeeding five years. Entitlements are often cited as one area of uncontrollable federal spending. This proposal is a means for control—by requiring periodic review for their necessity.

All programs subject to authorization would also cease to be included in the jurisdiction of the Department five years after enactment of S. 210. This would provide the Committee on Governmental Affairs an opportunity to review the need for maintaining any program under the Department's jurisdiction.

(3) Section 313 of the bill establishes an Intergovernmental Advisory Council on Education. The original language included mention of specific organizations to be consulted when the President is making appointments to the Council. The problem with the language is that it could lead to the exclusion of certain groups not specifically mentioned in the bill during the consultation process. The langauge has been changed to indicate that a "broad cross-section of organizations" will be consulted. This language is preferable to listing specific organizations.

DAVID DURENBERGER.

MINORITY VIEWS OF MR. COHEN

As Congress attempts to curtail the expansion of our overgrown federal bureaucracy, it faces a predicament not unlike that of Hercules trying to slay the mythical, multi-headed monster, Hydra. Every time that Hercules cut off one of Hydra's heads, two more would spring up in its place.

Our bureaucratic version of the multi-headed behemoth is the Department of Health, Education, and Welfare, which consumes more than one-third of that once vast pastureland known as the federal budget. While HEW's appetite has been expanding, its productivity and efficiency have been declining.

We are told, however, that HEW is not well balanced. Education has not received the funding or the attention given health and welfare. It lacks an informed and concerned spokesman who has the ear of the President. As a result of this neglect, education has become malnourished. I pass over the fact that having a spokesman who has access to the ear of the President at the feeding ground in the Oval Office has not produced a model of efficiency in either our health or welfare programs.

Nevertheless, the committee is asked to grasp the sword of efficiency and lop the "E" from HEW and then create a new agency, a new head, a new house, and yes, a new foundation. If we feed "E" properly, attend it carefully and manage it strictly, then ultimately we will have to spend less on its brother and sister, "H" and "W".

If the past is merely prologue, then the future for this new agency, and for the taxpayers who must support it, is not promising.

Few would dispute the contention of proponents of this bill that education programs are lost in the present organizational maze of HEW and that the existing structure has produced severe administrative difficulties. I do not, however, believe that the committee's solution of taking the "E" out of HEW will cure these difficulties. I have found no evidence which suggests that the problems plaguing federal education programs—duplicative and conflicting regulations, burdensome and unnecessary paperwork, and unclear lines of authority—would disappear or even be significantly reduced were a separate Department of Education to be created.

To the contrary, the actions of the present Commissioner of Education, Dr. Ernest Boyer, suggests that many of these difficulties can be solved by streamlining and reorganizing *within* the confines of HEW. For example, Commissioner Boyer has consolidated student loan programs with admirable results, proving that improvements are possible within the HEW structure.

The decision to create a new Department of Education needs to be more carefully considered in light of our commitment to reduce the size of the federal government. It is ironic that President Carter, who campaigned on the pledge to revamp the executive branch by reducing the number of federal agencies from 1,900 to 200, should be supporting legislation to create yet another Cabinet department.

As envisioned by the bill's sponsors, the Department of Education would include more than 150 programs and over 16,000 employees, including a Secretary of Education, an Undersecretary, six Assistant Secretaries, a Director of the Office of Civil Rights, a General Counsel, and an Inspector General. The legislation also creates a new advisory council and provides all of the other trappings and costs that accompany Cabinet status. With a budget in excess of $14 billion, the Department of Education would be larger than five of the present Cabinet departments—State, Interior, Commerce, Justice, and Energy. And based on our experience with the self-perpetuating nature of federal agencies, it is safe to predict that the Department of Education would inevitably grow even larger.

If, as the sponsors of this bill assure us, the state and local governments are to retain responsibility for education in this country, why is this bureaucracy needed? We run the substantial risk of pouring more and more tax dollars into a massive federal bureaucracy that will do nothing to improve the quality of education in this country.

One of the reasons advanced by those who favor creating a separate Department of Education is that greater efficiency would result from the consolidation of education programs now scattered throughout the federal bureaucracy in departments as diverse as Justice and Interior. This legislation, however, does very little to promote consolidation. Almost every non-HEW education program, including school lunch, Indian, and veterans' education programs, would *not* be transferred to the new department, and some disagreement still exists about those responsibilities that would be included under its jurisdiction. While it may indeed be advisable to place all federal education programs under one roof, this legislation does not accomplish that goal. Perhaps proponents hope that if Congress would create a shell now, the President could use his reorganization authority in future years to transfer additional programs with only minimal congressional review or political opposition.

Since this legislation neither consolidates existing education programs nor offers any guarantees that the current administrative problems would be alleviated, I believe that the debate on this bill must center on whether it is desirable to have an increased *national* focus on education. We need to consider what a more centralized focus would imply for educational policy in this country.

Supporters of this legislation argue that creation of a Department of Education would increase the status and visibility of education in the federal government and would recognize it as a fundamental national activity. I have no disagreement with this assertion, but I question whether or not we want to increase the federal role in education.

The diversity in our present education system is one of its strengths. This attribute stems at least in part from our strong tradition of citizen involvement in determining educational policy at the state and local levels. Unlike other countries, we do not have a national "ministry of education," which establishes and controls education for all of the nation's schools. Instead, we have local school boards comprised of the community's elected representatives who make educational decisions for public schools. The federal government's role has been a limited one, particularly in determining policies.

The distinguished sponsors of this legislation have gone to great lengths to try to satisfy the serious concerns that many of us have concerning the possibility of federal encroachment on the rights of state and local governments to control education. Language has been included in the bill restricting the powers of the new Department and stating that the state and local governments would retain primary responsibility for education. I find very little comfort in these words. A Cabinet-level office is, by its very nature, a policymaking office, and the supporters of this bill state that they want to increase the visibility of the federal government's education efforts.

How can we ensure that the federal government would not be involved in setting educational policy and at the same time confer Cabinet status on a Secretary of Education?

Our history clearly demonstrates that whenever the federal government becomes involved in a matter previously handled by the state and local governments, the state and local role inevitably decreases. In recent years, as the federal share of education costs has risen, local school districts have become increasingly ensnared by federal regulations. This trend will only increase with the creation of a separate Department of Education. The temptation to attach strings to federal education monies is always present, and the tendency of federal agencies to promulgate endless regulations that erode or pre-empt the authority of state and local governments is well-documented.

It is interesting to note that the Administration, which so strongly supports this measure for its consolidation objective, opposes a bill before this Committee to replace the three federal agencies which regulate banking with a single consolidated Federal Bank Commission. In his testimony on behalf of the Administration, Deputy Secretary of the Treasury Robert Carswell made the statement that he who controls the purse strings will also ultimately set the standards. This Administration appears to be cognizant of the problem of federal encroachment in the banking field, yet seemingly unaware of it in education.

I am also concerned about the precedent that we would establish in creating a narrowly-based, Cabinet-level department.

Educational organizations, for the most part, support creation of a separate department. But other interests would also like to have Cabinet representation. Small business groups for years have pressed for an upgrading of the status of the Small Business Administration to Cabinet level. Women's organizations would like very much to see the creation of a Department of Women, and environmentalists no doubt would prefer to have environmental issues separated from the Interior Department's other functions and elevated to Cabinet status. Our fishermen also want a Department of Fisheries. All of these interests are very important, and to their supporters, they are deserving of increased federal recognition. But, if our goal is to stem the growth of the bureaucracy, how can we rationalize the creation of a new department in view of the competing and perhaps equally important demands of other groups for similar representation?

Based on the testimony that I have heard and my reading of this legislation, I must conclude that creation of a new Department of Education would not be in the best interests of the American people or of state and local governments.

WILLIAM S. COHEN.

Changes in Existing Law

In compliance with subsection 4 of Rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, and existing law in which no change is proposed shown in Roman):

UNITED STATES CODE

TITLE 3—THE PRESIDENT

Chapter 1—Presidential Elections and Vacancies

SECTION 1. * * *

*   *   *   *   *   *   *

SEC. 19. VACANCY IN OFFICES OF BOTH PRESIDENT AND VICE PRESIDENT; OFFICERS ELIGIBLE TO ACT.—

(a)(1) * * *

*   *   *   *   *   *   *

(d)(1) If, by reason of death, resignation, removal from office, inability, or failure to qualify, there is no President pro tempore to act as President under subsection (b) of this section, then the officer of the United States who is highest on the following list, and who is not under disability to discharge the powers and duties of the office of the President shall act as President: Secretary of State, Secretary of the Treasury, Secretary of Defense, Attorney General, Secretary of the Interior, Secretary of Agriculture, Secretary of Commerce, Secretary of Labor, Secretary of Health [, Education, and Welfare,] *and Human Services*, Secretary of Housing and Urban Development, Secretary of Transportation, Secretary of [Energy.] *Energy, Secretary of Education.*

TITLE 5—GOVERNMENT ORGANIZATION AND EMPLOYEES

Part I—THE AGENCIES GENERALLY

Chapter 1—Organization

§ 101. Executive departments

The Executive departments are:

*   *   *   *   *   *   *

The Department of Health[, Education, and Welfare.] *and Human Services.*

*   *   *   *   *   *   *

104

The Department of Education.

* * * * * * *

§ 5108. Classification of positions at GS–16, 17, and 18

(a) The Director of the Office of Personnel Management may establish, and from time to time revise, the maximum numbers of positions (not to exceed an aggregate of [10,777)] *10,840*) which may at any one time be placed in—

(i) GS–16, 17, and 18; and

(ii) the Senior Executive Service, in accordance with section 3133 of this title.

A position may be placed in GS–16, 17, or 18, only by action of the Director of the Office of Personnel Management. The authority of the Director under this subsection shall be carried out by the President in the case of positions proposed to be placed in GS–16, 17, and 18 in the Federal Bureau of Investigation.

* * * * * * *

Part III—EMPLOYEES

Chapter 53—Pay Rates and Systems

* * * * * * *

§ 5312. Positions at level I

Level I of the Executive Schedule applies to the following positions for which the annual rate of basic pay shall be the rate determined with respect to such level under chapter 11 of title 2, as adjusted by section 5318 of this title:

(1) * * *

* * * * * * *

(10) Secretary of Health [, Education, and Welfare.] *and Human Services.*

* * * * * * *

(15) Secretary of Education

* * * * * * *

§ 5314. Position at level III

Level III of the Executive Schedule applies to the following positions, for which the annual rate of basic pay shall be the rate determined with respect to such level under chapter 11 of title 2, as adjusted by section 5318 of this title:

(1) * * *

* * * * * * *

(6) Under Secretary of Health [, Education and Welfare.] *and Human Services.*

* * * * * * *

(70) Under Secretary of Education.

§ 5315. Positions at level IV

Level IV of the Executive Schedule applies to the following positions, for which the annual rate of basic pay shall be the rate de-

termined with respect to such level under chapter 11 of title 2, as adjusted by section 5318 of this title:

(1) * * *

* * * * * * *

(17) Assistant Secretaries of Health[, Education and Welfare] *and Human Services.* (5).

* * * * * * *

(41) General Counsel of the Department of Health[, Education and Welfare.] *and Human Services.*

* * * * * * *

(99) Commissioner of Social Security, Department of Health [, Education and Welfare.] *and Human Services.*

* * * * * * *

(128) Assistant Secretaries of Education (9).

(129) Director of the Office for Civil Rights of the Department of Education.

(130) General Counsel of the Department of Education.

(131) Inspector General of the Department of Education.

§ 5316. Positions at level V

* * * * * * *

Level V of the Executive Schedule applies to the following positions, for which the annual rate of basic pay shall be the rate determined with respect to such level under chapter 11 of title 2, as adjusted by section 5316 of this title:

(1) * * *

* * * * * * *

(24) Assistant Secretary of Health[, Education and Welfare] *and Human Services* for Administration.

* * * * * * *

[(41 Commissioner of Education, Department of Health, Education and Welfare.]

* * * * * * *

(43) Commissioner of Food and Drugs, Department of Health[, Education and Welfare.] *and Human Services.*

* * * * * * *

(52) Commissioioner of Vocational Rehabilitation, Department of Health[, Education and Welfare.] *and Human Services.*

* * * * * * *

(53) Commissioner of Welfare, Department of Health [, Education and Welfare.] *and Human Services.*

(152) Administrator of Education for Overseas Dependent Children of the Department of Education.

(153) Additional Officer, Department of Education.

PUBLIC LAW 93–112 SEPTEMBER 26, 1973

AN ACT To replace the Vocational Rehabilitation Act, to extend and revise the authorization of grants to States for vocational rehabilitation services, with special emphasis on services to those with the most severe handicaps, to expand special Federal responsibilities and research and training programs with respect to handicapped individuals, to establish special responsibilities in the Secretary of Health, Education, and Welfare for coordination of all programs with respect to handicapped individuals within the Department of Health, Education, and Welfare, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act, with the following table of contents, may be cited as the "Rehabilitation Act of 1973":

AS AMENDED BY PUBLIC LAW 95–602, NOVEMBER 6, 1978

COMPREHENSIVE REHABILITATION SERVICES AMENDMENTS OF 1978

SECTION 1. * * *

* * * * * * *

INTERAGENCY COMMITTEE

SEC. 203. (a)(1) In order to promote coordination and cooperation among Federal departments and agencies conducting rehabilitation research programs, there is established within the Federal Government an Interagency Committee on Handicapped Research (hereinafter in this section referred to as the 'Committee'), chaired by the Director and comprised of such members as the President may designate, including the following (or their designees): the Director, the [Commissioner, the Commissioner] *Secretary* of Education, the Administrator of Veterans' Affairs, the Director of the National Institutes of Health, the Administrator of the National Aeronautics and Space Administration the Secretary of Transportation, and the Director of the National Sciences Foundation.

* * * * * * *

INTERAGENCY COORDINATING COUNCIL

SEC. 507. There shall be established an Interagency Coordinating Council (hereinafter referred to in this section as the 'Council') composed of the Secretary of [Health, Education, and Welfare,] *Education, the Secretary of Health and Human Services*, the Secretary of Labor, the Attorney General, the Chairman of the United States Civil Service Commission, the Chairman of the Equal Employment Opportunity Commission, and the Chairman of the Architectural and Transportation Barriers Compliance Board. The Council shall have the responsibility for developing and implementing agreements, policies, and practices designed to maximize effort, promote efficiency, and eliminate conflict, competition, duplication, and inconsistencies among the operations, functions, and jurisdictions of the various departments, agencies, and branches of the Federal Government responsible for the implementation and enforcement of the provisions of this title, and the regulations prescribed thereunder. On or before July 1 of each year, the Council shall transmit to the President and to the Congress a report of its activities, together with such recommendations for legislative or administrative changes as it concludes are desirable to further promote the purposes of this section. Nothing in this section shall impair any responsibilities assigned by any Executive Order to any Federal department, agency, or instrumentality to act as a lead Federal agency with respect to any provisions of this title.

PUBLIC LAW 93–203, DECEMBER 28, 1973

AN ACT To assure opportunities for employment and training to unemployed and underemployed persons

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Comprehensive Employment and Training Act of 1973".

* * * * * * *

CONSULTATION WITH THE SECRETARIES OF EDUCATION AND OF HEALTH AND HUMAN SERVICES

SEC. 306. The Secretary of Labor shall consult with the Secretary of Health [, Education, and Welfare,] *and Human Services* with respect to arrangements for services of a health [, education, or welfare] *or human services* character under this *Act. The Secretary of Labor shall consult with the Secretary of Education with respect to arrangements for services of an educational nature under this* Act, and the Secretary of [Health,] Education [and Welfare] shall solicit the advice and comments of State educational agencies with respect to education services. Such *education* services include but are not limited to basic or general education; educational programs conducted for offenders; institutional training; health care, child care, and other supportive services; and new careers and job restructuring in the health, education, and welfare professions. When the Secretary of Labor arranges for the provisions of basic education and vocational training directly, pursuant to the provisions of this title, [he] *the Secretary of Labor* shall obtain the approval of the Secretary of [Health,] Education [, and Welfare] for such arrangements.

PUBLIC LAW 93–203, DECEMBER 28, 1973

AN ACT To assure opportunities for employment and training to unemployed and underemployed persons

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Comprehensive Employment and Training Act of 1973".

As amended by Public Law 95–524, October 27, 1978

COMPREHENSIVE EMPLOYMENT AND TRAINING ACT AMENDMENTS OF 1978

SECTION 1. * * *

* * * * * * *

SEC. 303(a) * * *

* * * * * * *

(c)(1) In awarding a grant or contract for services administered under this section, the Secretary shall not assign any preferential weighting factor to an application therefor by virtue of the fact that the applicant holds at the time of application a prior grant or contract to provide services under this section; nor shall the Secretary assign any negative weighting factor to an application by virtue of the fact that an applicant is an instrumentality of State government.

(2) In carrying out programs and activities under this section, the Secretary shall continue in operation any program which is in existence on the effective date of this paragraph and—

(A) which is—

(i) operated through the use of the facilities of any institution of higher education; and

(ii) designed to assist migrant and seasonal farmworkers who are beyond the age of compulsory school attendance in the State in which the institution is located, through tutoring, counseling, and other similar assistance, in the completion of courses necessary to receive a high school diploma or its equivalent; or

(B) which serves migrant and seasonal farmworkers who are enrolled in a full-time basis in the first academic year of an undergraduate program at any institution of higher education, and the dependents of migrant and seasonal farmworkers if such dependents are so enrolled by—

(i) aiding such individuals in carrying out the transition from secondary school to postsecondary school programs;

(ii) generating motivation necessary for success in education beyond secondary school; and

(iii) providing counseling, tutorial, and similar educational services designed to assist such individuals during their first academic year at such institution.

The Secretary shall continue the operation of any such program for so long as such program is consistent with the purposes of this section, as determined by the Secretary.

[3**]***(d)* For the **[**purpose**]** *purposes* of carrying out *subsections (b) and (d) of* this section, the Secretary shall reserve from funds available for this title an amount equal to not less than **[**5 percent**]** *4⅝ per centum* of the amount allocated pursuant to section 202(a).

(e) In administering programs under this section, the Secretary shall consult with appropriate State and local officials and may enter into agreements with such officials to assist in the operation of such programs. In implementing this section the Secretary shall determine, in consultation with appropriate State and local educational agencies, that no substantial duplication will exist.

PUBLIC LAW 93-380, AUGUST 21, 1974

AN ACT To extend and amend the Elementary and Secondary Education Act of 1965, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Education Amendments of 1974".

* * * * * * *

103(c)(2)(A) * * *

(B) For purposes of this section, the Secretary of Health [, Education and Welfare] *and Human Services* shall determine the number of children aged five to seventeen, inclusive, from families above the poverty level on the basis of the number of such children from families receiving an annual income, in excess of the current criteria of poverty, from payments under the program of aid to families with dependent children under a State plan approved under title IV of the Social Security Act; and in making such determinations the Secretary shall utilize the criteria of poverty used by the Bureau of the Census in compiling the 1970 decennial census for a nonfarm family of four in such form as those criteria have been updated by increases in the Consumer Price Index. The Secretary shall determine the number of such children and the number of children of such ages living in institutions for neglected or delinquent children, or being supported in foster homes with public funds, on the basis of the caseload data for the month of October of the preceding fiscal year (using, in the case of children described in the preceding sentence, the criteria of poverty and the form of such criteria required by such sentence which were determined for the calendar year preceding such month of October), or, to the extent that such data are not available to him before January 1 of the calendar year in which the Secretary's determination is made, then on the basis of the most recent reliable data available to him at the time of such determination. *The Secretary of Health and Human Services shall transmit the information required by this subparagraph to the Secretary of Education not later than February 1 of each year.*

Public Law 93–422, September 21, 1974

AN ACT To extend the Drug Abuse Education Act of 1970 for three years

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Alcohol and Drug Abuse Education Act Amendments of 1974".

Sec. 2(a) * * *

* * * * * * *

Sec. 5. Technical Assistance—

The Secretary of *Health and Welfare, the Secretary of Education*, and the Attorney General (on matters of law enforcement) shall, when requested, render technical assistance to local educational agencies, public and private nonprofit organizations, and institutions of higher education in the development and implementation of programs of drug and alcohol abuse education. Such technical assistance may, among other activities, include making available to such agencies or institutions information regarding effective methods of coping with problems of drug and alcohol abuse, and making available to such agencies or institutions personnel of the Department of Health [, Education, and Welfare] *and Human Services, the Department of Education* and the Department of Justice, or other persons qualified to advise and assist in coping with such problems or carrying out a drug and alcohol abuse education program.

PUBLIC LAW 95–452, OCTOBER 12, 1978

AN ACT To reorganize the executive branch of the Government and increase its economy and efficiency by establishing Offices of Inspector General within the Departments of Agriculture, Commerce, *Education*, Housing and Urban Development, the Interior, Labor, and Transportation, and within the Community Services Administration, the Environmental Protection Agency, the General Services Administration, the National Aeronautics and Space Administration, the Small Business Administration, and the Veterans' Administration, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act be cited as the "Inspector General Act of 1978".

PURPOSE; ESTABLISHMENT

SEC. 2. In order to create independent and objective units—

(1) to conduct and supervise audits and investigations relating to programs and operations of the Department of Agriculture, the Department of Commerce, *the Department of Education*, the Department of Housing and Urban Development, the Department of the Interior, the Department of Labor, the Department of Transportation, the Community Services Administration, the Environmental Protection Agency, the General Services Administration, the National Aeronautics and Space Administration, the Small Business Administration, and the Veterans' Administration;

* * * * * * *

TRANSFER OF FUNCTIONS

SEC. 9. (a) There shall be transferred—

(1) to the Office of Inspector General—

(A) of the Department of Agriculture, the offices of that department referred to as the "Office of Investigation" and the "Office of Audit";

(B) of the Department of Commerce, the offices of that department referred to as the "Office of Audits" and the "Investigations and Inspections Staff" and that portion of the office referred to as the "Office of Investigations and Security" which has responsibility for investigation of alleged criminal violations and program abuse;

(C) of the Department of Education, all functions of the Inspector General of Health, Education, and Welfare and Human Services or of the Office of Inspector General of Health, Education, and Welfare and Human Services relating to functions transferred by section 301 of the Department of Education Organization Act;

[(C)**]** *(D)* of the Department of Housing and Urban Development, the office of that department referred to as the "Office of Inspector General";

[(D)**]** *(E)* of the Department of the Interior, the office of that department referred to as the "Office of Audit and Investigation";

[(E)] (*F*) of the Department of Labor, the office of that department referred to as the "Office of Special Investigations";

[(F)] (*G*) of the Department of Transportation, the offices of that department referred to as the "Office of Investigations and Security" and the "Office of Audit" of the Department, the "Offices of Investigations and Security, Federal Aviation Administration", and "External Audit Divisions, Federal Aviation Administration", the "Investigations Division and the External Audit Division of the Office of Program Review and Investigation, Federal Highway Administration", and the "Office of Program Audits, Urban Mass Transportation Administration";

[(G)] (*H*) of the Community Services Administration, the offices of that agency referred to as the "Inspections Division", the "External Audit Division", and the "Internal Audit Division";

[(H)] (*I*) of the Environmental Protection Agency, the offices of that agency referred to as the "Office of Audit" and the "Security and Inspection Division";

[(I)] (*J*) of the General Services Administration, the offices of that agency referred to as the "Office of Audit" and the "Office of Investigations";

[(J)] (*K*) of the National Aeronautics and Space Administration, the offices of that agency referred to as the "Management Audit Office" and the "Office of Inspections and Security";

[(K)] (*L*) of the Small Business Administration, the office of that agency referred to as the "Office of Audits and Investigations"; and

[(L)] (*M*) of the Veterans' Administration, the offices of that agency referred to as the "Office of Audits" and the "Office of Investigations"; and

(2) such other offices or agencies, or functions, powers, or duties thereof, as the head of the establishment involved may determine are properly related to the functions of the Office and would, if so transferred, further the purposes of this Act,

* * * * * * *

DEFINITIONS

SEC. 11. As used in this Act—

(1) the term "head of the establishment" means the Secretary of Agriculture, Commerce, Education, Housing and Urban Development, the Interior, Labor, or Transportation or the Administrator of Community Services, Environmental Protection, General Services, National Aeronautics and Space, Small Business, or Veterans' Affairs, as the case may be;

(2) the term "establishment" means the Department of Agriculture, Commerce, Education, Housing and Urban Development, the Interior, Labor, or Transportation or the Community Services Administration, the Environmental Protection Agency, the

General Services Administration, the National Aeronautics and Space Administration, the Small Business Administration, or the Veterans' Administration, as the case may be;

* * * * * * *

PUBLIC LAW 95-561, NOVEMBER 1, 1978

AN ACT To extend and amend expiring elementary and secondary education programs, and for other purposes.

***Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That this Act may be cited as the "Education Amendments of 1978".**

* * * * * * *

TITLE XIV—OVERSEAS DEFENSE DEPENDENTS' EDUCATION

SHORT TITLE

SEC. 1401. This title may be cited as the "Defense Dependents' Education Act of 1978".

* * * * * * *

SCHOOL ADVISORY COMMITTEES

SEC. 1410. (a)(1) The Director shall provide for the establishment of an advisory committee for each school in the defense dependents' education system. An advisory committee for a school shall advise the principal or superintendent of the school with respect to the operation of the school, may make recommendations with respect to curriculum and budget matters, and, except as provided under paragraph (2), shall advise the local military commander with respect to problems concerning dependents' education within the jurisdiction of the commander. The membership of each such advisory committee shall include an equal number of representatives of [sponsors of students and enrolled in the school and of employees working at the school] *professional employee organizations, school administrators, and representatives of organizations of parents of dependents enrolled in the school* and, when appropriate, may include a student enrolled in the school.

(2) In the case of any military installation or overseas area where there is more than one school in the defense dependents' education system, the Director shall provide for the establishment of an advisory committee for such military installation or overseas area to advise the local military commander with respect to problems concerning dependents' education within the jurisdiction of the commander.

(b) Members of a school advisory committee established under this section shall be elected by individuals of voting age residing in the area to be served by the advisory committee. The Secretary of *Education, in consultation with the Secretary of* Defense shall by regulation prescribe the qualifications for election to an advisory committee and procedures for conducting elections of advisory committee members.

* * * * * *

ADVISORY COUNCIL ON DEPENDENTS' EDUCATION

SEC. 1411. (a) There is established in the Department of [Defense] *Education* an Advisory Council on Dependents' Education (hereinafter in this section referred to as the "Council"). The Council shall be composed of—

[(1) the Assistant Secretary of Defense for Manpower, Reserve Affairs, and Logistics (hereinafter in this section referred to as the "Assistant Secretary"), who shall be the chairman of the Council;

[(2) twelve individuals appointed by the Assistant Secretary, who shall be individuals versed by training or experience in the field of primary or secondary education and who shall include representatives of professional employee organizations, school administrators, sponsors of students enrolled in the defense dependents' education system, and one student enrolled in such system; and

[(3) a representative of each of—

[(A) the Commissioner of Education, Department of Health, [Education, and Welfare,] *and Human services,*

[(B) the Director of the National Institute of Education, Department of Health, [Education, and Welfare,] *and Human Services,*

[(C) the Director of the Educational Directorate of the National Science Foundation,

[(D) the Chairman of the National Endowment for the Arts,

[(E) the Chairman of the National Endowment for the Humanities, and

[(F) the Secretaries of the military departments.

[The Director shall be the Executive Secretary of the Council.]

(1) the Administrator of Education for Overseas Dependents, who shall be the chairman of the Council;

(2) twelve individuals appointed by the Secretary of Education, who shall be individuals who have demonstrated an interest in the fields of primary or secondary education and who shall include representatives of professional employee organizations, school administrators, representatives of organizations of parents of dependents enrolled in the dependents' education system, and one student enrolled in such system;

(3) a representative of the Secretary of the Army, of the Secretary of the Navy, and of the Secretary of the Air Force; and

(4) a representative of the Secretary of Education and of the Secretary of Defense.

(b) The term of office of each member of the Council appointed under subsection (a)(2) shall be [three] *two* years, except that—

(1) of the members first appointed under such paragraph, [four] *six* shall serve for a term of one year, [four] *and six* shall serve for a term of two years, [and four shall serve for a term of three years] as determined by the [Assistant] Secretary *of Education* at the time of their appointment, and

(2) any member appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term.

No member appointed under subsection (a)(2) shall serve more than two full terms on the Council.

(c) The Council shall meet at least four times each year. The functions of the Council shall be to—

(1) recommend to the Director general policies for operation of the defense dependents' education system with respect to curriculum selection, administration, and operation of the system,

[(2) provide information to the Director from other Federal agencies concerned with primary and secondary education with respect to education programs and practices which such agencies have found to be effective and which should be considered for inclusion in the defense dependents' education system,]

(2) study and make recommendations concerning the gradual transfer of the Overseas Dependents' Education system to the Department of Education, including—

(A) the development of an efficient mode of operation of the system in the Department of Education;

(B) the development of close working relationships and sound cooperation between the Department of Education and the Department of Defense; and

(C) the development of a plan to insure the maximum participation of parents and dependents in the administration and operation of the system.

(3) advise the Director on the design of the study and the selection of the contractor referred to in section 1412(a)(2) of this title, and

(4) perform such other tasks as may be required by the Assistant Secretary.

(d) Members of the Council who are not in the regular full-time employ of the United States shall, while attending meetings or conferences of the Council or otherwise engaged in the business of the Council, be entitled to receive compensation at the daily equivalent of the rate specified at the time of such service for grade GS–18 in section 5332 of title 5, United States Code, including traveltime, and while so serving on the business of the Council away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons employed intermittently in the Government service.

(e) The Council shall continue in existence until terminated by law.

* * * * * * *

TEXT OF S. 210 AS REPORTED

A BILL to establish a Department of Education

That this Act may be cited as the "Department of Education Organization Act of 1979".

TABLE OF CONTENTS

Section 1. Short title.

TITLE I—GENERAL PROVISIONS

Sec. 101. Statement of findings.
Sec. 102. Purposes.
Sec. 103. State and local responsibilities for education.
Sec. 104. Definitions.

TITLE II—ESTABLISHMENT OF DEPARTMENT

Sec. 201. Department of Education.
Sec. 202. Principal officers.
Sec. 203. Functions of the Department.
Sec. 204. Office for Civil Rights.
Sec. 205. Office of Elementary and Secondary Education.
Sec. 206. Office of Postsecondary Education.
Sec. 207. Office of Occupational, Adult, and Community Education.
Sec. 208. Office of Special Education and Rehabilitative Services.
Sec. 209. Office of Education for Overseas Dependents.
Sec. 210. Office of Educational Research and Improvement.
Sec. 211. Office of General Counsel.
Sec. 212. Office of Inspector General.
Sec. 213. Intergovernmental Advisory Council on Education.
Sec. 214. Federal Interagency Committee on Education.

TITLE III—TRANSFERS OF AGENCIES AND FUNCTIONS

Sec. 301. Transfers of agencies and functions from the Department of Health, Education, and Welfare.
Sec. 302. Transfers of agencies and functions from the Department of Defense.
Sec. 303. Transfers of functions from the National Science Foundation.
Sec. 304. Transfers of programs from the Department of Justice.
Sec. 305. Transfers of functions from the Department of Housing and Urban Development.
Sec. 306. Transfers of functions from the Department of Labor.
Sec. 307. Transfer of the Advisory Council on Education Statistics.
Sec. 308. Effect of transfers.

TITLE IV—ADMINISTRATIVE PROVISIONS

Part A—PERSONNEL PROVISIONS

Sec. 401. Officers and employees.
Sec. 402. Experts and consultants.
Sec. 403. Annual authorization of personnel.

Part B—GENERAL PROVISIONS

Sec. 411. Authority of the Secretary.
Sec. 412. Delegation.
Sec. 413. Reorganization.
Sec. 414. Reporting relationships.
Sec. 415. Rules.
Sec. 416. Contracts.
Sec. 417. Technical advice.
Sec. 418. Regional and field offices.
Sec. 419. Acquisition and maintenance of property.
Sec. 420. Facilities at remote locations.
Sec. 421. Use of facilities.
Sec. 422. Copyrights and patents.
Sec. 423. Gifts and bequests.
Sec. 424. Working capital fund.
Sec. 425. Funds transfer.
Sec. 426. Seal of the Department.
Sec. 427. Annual report.
Sec. 428. Relationship to General Education Provisions Act.
Sec. 429. Authorization of appropriations.

TITLE V—TRANSITIONAL, SAVINGS, AND CONFORMING PROVISIONS

Sec. 501. Transfer and allocations of appropriations and personnel.
Sec. 502. Effect on personnel.
Sec. 503. Agency terminations.
Sec. 504. Incidental transfers.
Sec. 505. Savings provisions.
Sec. 506. Separability.
Sec. 507. Reference.
Sec. 508. Technical amendments.
Sec. 509. Amendments to the Comprehensive Employment and Training Act.
Sec. 510. Amendment to the Elementary and Secondary Education Act of 1965.
Sec. 511. Amendments to the Defense Dependents' Education Act of 1978.
Sec. 512. Redesignation.
Sec. 513. Transition.

TITLE VI—EFFECTIVE DATE AND INTERIM APPOINTMENTS

Sec. 601. Effective date.
Sec. 602. Interim appointments.

TITLE I—GENERAL PROVISIONS

STATEMENT OF FINDINGS

Sec. 101. The Congress finds and declares that—

(1) education is fundamental to the growth and achievement of the Nation;

(2) there is a continual need to provide equal access to education for all Americans;

(3) the primary responsibility for education has in the past, and must continue in the future, to reside with the States, the local school systems and other instrumentalities of the States, and tribal governments, public and nonpublic educational institutions, communities, and families;

(4) in our federal system, the primary public responsibility for education is reserved respectively to the States, the local school systems and other instrumentalities of the States, and tribal governments;

(5) the dispersion of education programs across a large number of Federal agencies has led to fragmented, duplicative, and often inconsistent Federal policies relating to education;

(6) there is a lack of coordination of Federal resources for State, local, and tribal governments and public and nonpublic educational institutions;

(7) Presidential and public consideration of issues relating to education is hindered by the present organizational position of education programs in the executive branch of the Government;

(8) the importance of education is increasing as new technologies and alternative approaches to traditional education are considered, as society becomes more complex, and as equal opportunities in education and employment are promoted; and

(9) therefore, it is in the public interest and general welfare of the United States to establish a Department of Education.

PURPOSES

Sec. 102. It is the purpose of this Act to establish a Department of Education in order to—

(1) enable education to receive the appropriate emphasis at the Federal level;

(2) continue and strengthen the Federal commitment to insuring access by every individual to equal educational opportunities;

(3) supplement and complement the efforts of States, the local school systems and other instrumentalities of the States, tribal governments, the private sector, public and nonpublic educational institutions, public or private nonprofit educational research institutions, community-based organizations, parents, and students to improve the quality of education;

(4) encourage the increased involvement of parents, students, and the community in the process relating to education, including the development and improvement of education programs and services;

(5) enable the Federal Government to coordinate education activities and programs more effectively through interagency cooperation, technical assistance, and evaluation of program effectiveness;

(6)(A) provide assistance in the support of basic and applied education research; (B) collect and analyze information on the progress and condition of education in the United Staets; and (C) work with State, local, and tribal officials, public and nonpublic educational institutions, community organizations, parents and students to implement the findings of such research at the local level and

(7) supplement and complement the efforts of State, local, tribal, public, and nonpublic agencies by providing support to the articulated educational needs of such agencies, especially with respect to the simplification of the process, procedures, and administrative structures for the dispersal of Federal funds, as well as the reduction of unnecessary and duplicative burdens and constraints, including unnecessary paperwork, on the recipients of Federal funds.

STATE AND LOCAL RESPONSIBILITIES FOR EDUCATION

Sec. 103. (a)(1) The establishment of the Department of Education shall not increase the authority of the Federal Government over education or diminish the responsibility for education which is reserved to the States, the local school systems and other instrumentalities of the States, and tribal governments.

(2) It is the intention of the Congress in the establishment of the Department of Education to protect the rights of State, local, and tribal governments and public and nonpublic educational institutions in the areas of educational policies and administration of programs, including but not limited to competency testing and selection of curricula and program content, and to strengthen and improve the control of such governments and institutions over their own educational programs and policies.

(b) Nothing in this Act shall be construed to require any particular organization at the State level of any programs transferred to the Department, including vocational rehabilitation programs.

DEFINITIONS

Sec. 104. As used in this Act—

(1) the term "Department" means the Department of Education or any component thereof;

(2) the term "Secretary" means the Secretary of Education;

(3) the term "Under Secretary" means the Under Secretary of Education;

(4) the term "Assistant Secretary" means an Assistant Secretary of Education;

(5) the term "Director" means the Director of the Office for Civil Rights;

(6) the term "Administrator" means the Administrator of the Office of Education for Overseas Dependents;

(7) the term "Council" means the Intergovernmental Advisory Council on Education;

(8) the term "Committee" means the Federal Interagency Committee on Education; and

(9) the term "function" includes any duty, obligation, power, authority, responsibility, right, privilege, and activity.

TITLE II—ESTABLISHMENT OF DEPARTMENT

DEPARTMENT OF EDUCATION

SEC. 201. There is established as an executive department of the Government, the Department of Education.

PRINCIPAL OFFICERS

SEC. 202. (a) The Department shall be administered by a Secretary of Education who shall be appointed by the President, by and with the advice and consent of the Senate. The Secretary shall be compensated at the rate provided for level I of the Executive Schedule contained in section 5312 of title 5, United States Code.

(b)(1) There shall be in the Department an Under Secretary of Education who shall be appointed by the President, by and with the advice and consent of the Senate. The Under Secretary shall have responsibility for the conduct of intergovernmental relations by the Department. The Under Secretary shall assure that the Department carries out its functions in a manner which supplements and complements the education policies, programs, and procedures of the States, the local school systems and other instrumentalities of the States, and tribal governments. The Under Secretary shall assure that appropriate officials of the Department consult with individuals responsible for making policy relating to education in the States, the local school systems and other instrumentalities of the States, and tribal governments concerning differences over education policies, programs, and procedures and concerning the impact of the rules and regulations of the Department on the States, the local school systems and other instrumentalities of the States, and tribal governments.

(2) The Under Secretary shall perform such additional duties and exercise such additional powers as the Secretary shall prescribe. During the absence or disability of the Secretary, or in the event of a vacancy in the office of the Secretary, the Under Secretary shall act as Secretary. The Under Secretary shall be compensated at the rate provided for level III of the Executive Schedule contained in section 5314, United States Code.

(3) The Secretary shall designate the order in which other officials of the Department shall act for and perform the functions of the Secretary during the absence or disability of both the Secretary and Under Secretary or in the event of vacancies in both of these offices.

(c)(1) There shall be in the Department—

(A) an Assistant Secretary for Special Education and Rehabilitative Services;

(B) an Assistant Secretary for Elementary and Secondary Education;

(C) an Assistant Secretary for Postsecondary Education;

(D) an Assistant Secretary for Occupational, Adult, and Community Education;

(E) an Assistant Secretary for Educational Research and Improvement;

(F) a Director of the Office for Civil Rights;

(G) one additional Assistant Secretary;

(H) a General Counsel; and

(I) an Inspector General.

(2) Each of the Assistant Secretaries, the Director of the Office for Civil Rights, the General Counsel, and the Inspector General shall be appointed by the President, by and with the advice and consent of the Senate. Each Assistant Secretary, the Director of the Office for Civil Rights, and the General Counsel shall perform such duties and exercise such powers as the Secretary shall prescribe. Each Assistant Secretary, the Director of the Office for Civil Rights, and the General Counsel shall report directly to the Secretary. Each Assistant Secretary, the Director of the Office for Civil Rights, the General Counsel, and the Inspector General shall be compensated at the rate provided for level IV of the Executive Schedule contained in section 5315 of title 5, United States Code.

(d) The Assistant Secretary appointed pursuant to subsection (c)(1)(G) shall administer the functions of the Department under section 203(11) and shall perform such additional duties and exercise such additional powers as the Secretary may prescribe.

(e) There shall be in the Department an Administrator of Education for Overseas Dependents. The Administrator shall perform such duties and exercise such powers as the Secretary may prescribe. The Administrator shall be compensated at the rate provided for level V of the Executive Schedule contained in section 5316 of title 5, United States Code.

(f) There shall be in the Department one additional officer who shall perform such duties and exercise such powers as the Secretary may prescribe. Such officer shall be compensated at the rate provided for level V of the Executive Schedule contained in section 5316 of title 5, United States Code.

(g) Whenever the President submits the name of an individual to the Senate for confirmation as an officer of the Department under subsections (c) and (d), the President shall state the particular functions of the Department such individual will exercise upon taking office.

FUNCTIONS OF THE DEPARTMENT

SEC. 203. The functions of the Department shall be to promote the cause and advancement of education throughout the United States and shall include—

(1) administration of programs pertaining to elementary and secondary education;

(2) administration of programs pertaining to postsecondary education;

(3) administration of programs pertaining to occupational, adult, and community education;

(4) administration of education grants and other programs for which the Department has responsibility under law;

(5) administration of programs relating to special education and rehabilitative services;

(6) enforcement of the civil rights laws relating to education;

(7) intergovernmental policies and relations, including responsibility for assuring that Federal education policies and procedures supplement and complement the efforts of State, local, and tribal governments, the private sector, public and nonpublic educational institutions, public or private nonprofit educational research institutions, community-based organizations, and parents to improve their educational programs;

(8) administration of schools for the overseas dependents of personnel of the Department of Defense;

(9) research, dissemination of improved educational practices, and the coordinated collection and dissemination of statistics;

(10) public information;

(11) planning and evaluation of the programs of the Department, and development of policies to promote the efficient and coordinated administration of the Department and the programs of the Department and to encourage improvement in education;

(12) congressional relations, including responsibility for providing a continuing liaison between the Department and the Congress;

(13) administration and management of the Department, including responsibility for legal assistance, accounting, personnel, payroll, budgeting, and other administrative functions; and

(14) monitoring parental and public participation in programs where such participation is required by law, and encouraging the involvement of parents, students, and the public in the development and implementation of departmental programs.

OFFICE FOR CIVIL RIGHTS

SEC. 204. (a) There is established in the Department an Office for Civil Rights, to be administered by the Director of the Office for Civil Rights appointed under section 202(c). The Secretary shall delegate to the Director of the Office for Civil Rights all functions of the Office for Civil Rights of the Department of Health, Education, and Welfare relating to education transferred under section 301(b)(3)(C) *(other than administrative and support functions). The Director shall perform such additional duties and exercise such additional powers as the Secretary may prescribe.*

(b) Each year, the Director shall prepare and transmit a report directly to the President, the Secretary, and the Congress concerning the status of compliance with the civil rights laws relating to education. The report shall include a statement concerning the plans and recommendations of the Director to insure improved enforcement of and continued compliance with the civil rights laws relating to education.

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

SEC. 205. There is established in the Department an Office of Elementary and Secondary Education, to be administered by the Assistant Secretary for Elementary and Secondary Education appointed under section 202(c). The Assistant Secretary for Elementary and Secondary Education shall perform such duties and exercise such powers as the Secretary may prescribe.

OFFICE OF POSTSECONDARY EDUCATION

SEC. 206. There is established in the Department an Office of Postsecondary Education, to be administered by the Assistant Secretary for Postsecondary Education appointed under section 202(c). The Assistant Secretary for Postsecondary Education shall perform such duties and exercise such powers as the Secretary may prescribe.

OFFICE OF OCCUPATIONAL, ADULT, AND COMMUNITY EDUCATION

SEC. 207. There is established in the Department an Office of Occupational, Adult, and Community Education, to be administered by the Assistant Secretary for Occupational, Adult, and Community Education appointed under section 202(c). The Assistant Secretary for Occupational, Adult, and Community Education shall perform such duties and exercise such powers as the Secretary may prescribe.

OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

SEC. 208. There shall be in the Department an Office of Special Education and Rehabilitative Services, to be administered by the Assistant Secretary of Education for Special Education and Rehabilitative Services appointed under section 202(c). The Secretary shall delegate to the Assistant Secretary for Special Education and Rehabilitative Services all functions transferred to the Secretary under sections 301(b)(3)(A)(x) (including the functions of the Bureau for the Education and Training of the Handicapped), 301(b)(3)(G), and 301(b)(4), relating to the Education of the Handicapped Act, the Rehabilitation Act of 1973, and the Randolph-Sheppard Act (other than administrative and support functions). The Assistant Secretary for Special Education and Rehabilitative Services shall perform such additional duties and exercise such additional powers as the Secretary may prescribe.

OFFICE OF EDUCATION FOR OVERSEAS DEPENDENTS

SEC. 209. There is established in the Department an Office of Education for Overseas Dependents, to be administered by the Administra-

tor appointed under section 202(e). The Secretary shall delegate to the Administrator all functions transferred from the Department of Defense under section 302, relating to the Office of Dependents Schools of the Department of Defense (and after June 30, 1979, relating to the Office of Dependents' Education of the Department of Defense) and to the operation of overseas schools for dependent children of members of the Armed Forces (other than administrative and support functions). The Administrator shall perform such additional duties and exercise such additional powers as the Secretary may prescribe.

OFFICE OF EDUCATIONAL RESEARCH AND IMPROVEMENT

SEC. 210. (a) There is established in the Department an Office of Educational Research and Improvement, to be administered by the Assistant Secretary for Educational Research and Improvement appointed under section 202(c). The Secretary shall delegate to the Assistant Secretary for Educational Research and Improvement—

(1) all functions transferred from the Secretary of Health, Education, and Welfare—

(A) under section 301(b)(3)(A)(i), relating to the Fund for the Improvement of Postsecondary Education; and

(B) under section 301(b)(3)(E), relating to Federal grants for telecommunications demonstrations; and

(2) all programs transferred from the National Science Foundation or the Director of the National Science Foundation under section 303.

(b) The Assistant Secretary for Educational Research and Improvement shall perform such additional duties and exercise such additional powers as the Secretary may prescribe.

OFFICE OF GENERAL COUNSEL

SEC. 211. There is established in the Department an Office of General Counsel, to be administered by the General Counsel appointed under section 202(c). The General Counsel shall perform such duties and exercise such powers as the Secretary may prescribe, and shall provide legal assistance to the Secretary concerning the programs and policies of the Department.

OFFICE OF INSPECTOR GENERAL

SEC. 212. (a) There is established in the Department an Inspector General, to be appointed in accordance with the provisions of the Inspector General Act of 1978.

(b) The Inspector General Act of 1978 is amended—

(1) by inserting in section 2(1) "the Department of Education," immediately after "Commerce,";

(2) in section 9(a)(1)—

(A) by redesignating subparagraphs (C) through (L) as (D) through (M), respectively; and

(B) by inserting immediately after subparagraph (B) the following new subparagraph:

"(C) of the Department of Education, all functions of the Inspector General of Health, Education, and Welfare or of

the Office of Inspector General of Health, Education, and Welfare relating to functions transferred by section 301 of the Department of Education Organization Act;";

(3) by inserting in section 11(1) "Education," immediately after "Commerce,"; and

(4) by inserting in section 11(2) "Education," immediately after "Commerce,".

(c) The title of the Inspector General Act of 1978 is amended to read as follows: "An Act to reorganize the executive branch of the Government and increase its economy and efficiency by establishing offices of Inspector General within the Departments of Agriculture, Commerce, Education, Housing and Urban Development, the Interior, Labor, and Transportation, and within the Community Services Administration, the Environmental Protection Agency, the General Services Administration, the National Aeronautics and Space Administration, the Small Business Administration, and the Veterans' Administration, and for other purposes.".

INTERGOVERNMENTAL ADVISORY COUNCIL ON EDUCATION

SEC. 213. (a) There is established within the Department an advisory committee to be known as the Intergovernmental Advisory Council on Education. The Council shall provide assistance and make recommendations to the Secretary and the President concerning intergovernmental policies and relations relating to education.

(b)(1) In carrying out its functions under subsection (a), the Council shall—

(A) provide a forum for the development of recommendations concerning intergovernmental policies and relations relating to education;

(B) make recommendations for the improvement of the administration and operation of Federal education programs and education-related programs;

(C) promote better intergovernmental relations;

(D) assess Federal policies and make recommendations to insure effective direction over educational policymaking and program implementation by State, local, and tribal governments and public and nonpublic educational institutions;

(E) submit a report biannually to the Congress, to the President, and to the Secretary which—

(i) reviews the impact of Federal education policies upon State, local, and tribal governments, and public and nonpublic educational institutions; and

(ii) assesses the achievement of Federal objectives in education as well as any adverse consequences of Federal actions upon State, local, and tribal governments, and public and nonpublic educational institutions; and

(F) assist the Secretary in conducting conferences and similar activities to assess the contribution of each level of government to the delivery of equitable, high quality, and effective education.

(2) In carrying out its functions under subsection (a), the Council may review existing and proposed rules or regulations of the De-

partment concerning Federal education programs in order to determine the impact or potential impact of such rules or regulations on State, local, and tribal governments and public and nonpublic educational institutions. The Council may submit to the Secretary a report containing the results of its review of any existing or proposed rules or regulations. Within thirty days of the receipt of such report, the Secretary shall submit to the Council a written response which addresses the recommendations made by the Council concerning any rules or regulations reviewed. If a report by the Council concerns proposed rules or regulations, it shall be submitted to the Secretary within the time established for public comment on the proposed rules or regulations, and shall be placed, with the written response of the Secretary to the report, on the record of the proceeding concerning the proposed rules or regulations.

(c)(1) The Council shall be composed of twenty-five members. One member shall be the Under Secretary of Education. The President shall appoint—

(A) eight members from among State Governors, legislators, boards of education (both elementary and secondary and postsecondary), and chief education officials (both elementary and secondary and postsecondary);

(B) eight members from among local or regional elected general government officials, local boards of education, public and nonpublic school administrators, and tribal governments;

(C) two members from among governing boards of public and nonpublic postsecondary institutions; and

(D) six members from among the public, including parents, teachers, students, and public interest groups.

(2) In making appointments under this subsection, the President shall consult with a broad cross-section of organizations representative of the groups specified in subparagraphs (A) through (D) of paragraph (1), including but not limited to representatives of State and local governmental authorities, school boards and school officials, and education organizations.

(3) Not more than thirteen of the members of the Council may be members of the same political party.

(d)(1) Members of the Council shall be appointed for a term of four years, except that the term of office of the members first appointed shall expire, as designated by the President at the time of appointment, five at the end of one year, five at the end of two years, six at the end of three years, and six at the end of four years.

(2) Any member of the Council who is appointed pursuant to subsection (c)(1) may serve on the Council beyond the period that such member holds the elective office which served as the basis of the appointment of such member.

(e) The Council shall elect one of its members as Chair of the Council.

(f) Any vacancy in the Council shall not affect its power to function.

(g) Each member of the Council who is not otherwise employed by the United States Government shall receive compensation at a rate equal to the daily rate prescribed for GS–18 under the General Schedule under section 5332 of title 5, United States Code, including

traveltime, for each day such member is engaged in the actual performance of duties as a member of the Council. A member of the Council who is an officer or employee of the United States Government shall serve without additional compensation. All members of the Council shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties.

(*h*) *In order to carry out the provisions of this section, the Council is authorized to—*

(*1*) *hold such hearings and sit and act at such times and places, either as a whole or by subcommittee, and request the attendance and testimony of such witnesses and the production of such books, records, correspondence, memorandums, papers, and documents as the Council or such subcommittee may deem advisable; and*

(*2*) *request the cooperation and assistance of Federal departments, agencies, and instrumentalities in carrying out the provisions of this section, and such departments, agencies, and instrumentalities are authorized to provide such cooperation and assistance.*

(*i*) *The Council shall nominate and the Secretary shall appoint an executive director for the Council. The executive director shall be compensated at the rate provided for GS–17 of the General Schedule under section 5332, title 5, United States Code. The Secretary shall provide the Council with such other staff, support, facilities, and assistance as may be necessary to enable the Council to carry out its duties under this section.*

FEDERAL INTERAGENCY COMMITTEE ON EDUCATION

Sec. 214. (*a*) *There is established a Federal Interagency Committee on Education. The Committee shall assist the Secretary in providing a mechanism to assure that the procedures and actions of the Department and other Federal departments and agencies are fully coordinated.*

(*b*) *The Committee shall cooperate with the Secretary in the conduct of studies and shall make recommendations in order to assure the effective coordination of Federal programs affecting education, including—*

(*1*) *the consistent administration of policies and practices by Federal agencies in the conduct of similar programs;*

(*2*) *full and effective communication among Federal agencies to avoid unnecessary duplication of activities and repetitive collection of data;*

(*3*) *adequate procedures to assure the availability of information requested by the Secretary;*

(*4*) *the improvement, development, and oversight of a comprehensive Federal policy for education; and*

(*5*) *the improvement of the administration and coordination of federally funded vocational education and training programs for the purpose of aiding students and adults in preparing for and achieving success in their worklife.*

(*c*)(*1*) *The Committee shall be composed of at least seventeen members. One member shall be the Secretary, who shall be the Chair of the Committee.*

(2) (A) Sixteen members of the Committee shall be representatives of the departments and agencies listed in subparagraph (B), to be appointed by the head of each department and agency from among the senior policymaking officials of that department or agency.

(B) The departments and agencies to be represented on the Committee pursuant to subparagraph (A) are:

(i) Department of Agriculture;
(ii) Department of Commerce;
(iii) Department of Defense;
(iv) Department of Energy;
(v) Department of Justice;
(vi) Department of Health and Human Services;
(vii) Department of the Interior;
(viii) Department of Labor;
(ix) Department of State;
(x) National Aeronautics and Space Administration;
(xi) National Endowment for the Arts;
(xii) National Endowment for the Humanities;
(xiii) National Science Foundation;
(xiv) Veterans' Administration;
(xv) Commission on Civil Rights; and
(xvi) Environmental Protection Agency.

(3) The Director of the Office of Management and Budget, the Chairman of the Council of Economic Advisers, and the Executive Director of the Domestic Policy Staff may each designate a member of the staff of such agencies to attend meetings of the Committee as observers.

(4) The Secretary may invite the heads of Federal agencies other than the agencies represented on the Committee under the provisions of paragraph (2) to designate representatives to serve as members of the Committee or to participate in meetings of the Committee concerning matters of substantial interest to such agencies.

(d) In carrying out its functions under subsection (b) (5), the Committee shall conduct a study concerning the need for improved coordinating between all federally funded vocational education and training programs. The Committee shall report the findings of such study to the Secretary and the Congress within two years of the date of enactment of this Act.

(e) The Committee shall meet at least twice each year.

(f) The Secretary and the head of each Federal agency represented on the Committee under subsection (c) (2) shall furnish such assistance, support, facilities, and staff to the Committee as may be necessary to enable the Committee to carry out its functions under this section.

TITLE III—TRANSFERS OF AGENCIES AND FUNCTIONS

TRANSFERS OF AGENCIES AND FUNCTIONS FROM THE DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SEC. 301. (a) All officers, employees, assets, liabilities, contracts, grants, property, and records as are determined by the Director of the Office of Management and Budget to be employed, held, or used pri-

marily in connection with any function of the following agencies, offices, or parts of agencies or offices, are transferred to the Department and vested in the Secretary:

(*1*) *the Education Division of the Department of Health, Education, and Welfare, including the National Institute of Education;*

(*1*) *the Education Division of the Department of Health, Education, and Welfare, including the National Institute of Education;*

(*2*) *the Office of the Assistant Secretary for Education, including the National Center for Education Statistics;*

(*3*) *the Institute of Museum Services of the Department of Health, Education, and Welfare;*

(*4*) *any advisory committee in the Department of Health, Education, and Welfare giving advice and making recommendations principally concerning education;*

(*5*) *the Office of Information and Resources for Handicapped Individuals of the Department of Health, Education, and Welfare;*

(*6*) *the Rehabilitation Services Administration of the Department of Health, Education, and Welfare, except that portion of such Administration responsible for the administration of the Developmental Disabilities Assistance and Bill of Rights Act;*

(*7*) *the National Institute of Handicapped Research of the Department of Health, Education, and Welfare;*

(*8*) *the Interagency Committee on Handicapped Research;*

(*9*) *the Helen Keller National Center for Deaf-Blind Youth and Adults; and*

(*10*) *the National Council on the Handicapped.*

(*b*)(*1*) *There are transferred to the Secretary all functions of the Secretary of Health, Education, and Welfare, the Assistant Secretary for Education, or the Commissioner of Education of the Department of Health, Education, and Welfare, as the case may be, with respect to—*

(*A*) *the Education Division of the Department of Health, Education, and Welfare;*

(*B*) *the Office of the Assistant Secretary for Education, including the National Center for Education Statistics; and*

(*C*) *any advisory committee in the Department of Health, Education, and Welfare giving advice and making recommendations principally concerning education.*

(*2*) *There are transferred to the Secretary all functions of the Secretary of Health, Education, and Welfare which are administered through the Office of the Secretary of Health, Education, and Welfare and which directly relate to functions transferred by this section.*

(*3*) *There are transferred to the Secretary all functions of the Secretary of Health, Education, and Welfare or the Department of Health, Education, and Welfare—*

(*A*) *under—*

(*i*) *the General Education Provisions Act, including the provisions of section 404 of such Act relating to the Fund for the Improvement of Postsecondary Education;*

(*ii*) *the Emergency School Aid Act (and after September 30, 1979, under title VI of the Elementary and Secondary Education Act of 1965);*

(iii) the Higher Education Act of 1965;

(iv) the Emergency Insured Student Loan Act of 1969;

(v) the Act of August 30, 1890 (26 Stat. 417);

(vi) title II of the Elementary and Secondary Education Act of 1965;

(vii) the Alcohol and Drug Abuse Education Act, except functions under section 5 of such Act;

(viii) the International Education Act of 1966;

(ix) the National Defense Education Act of 1958;

(x) the Education of the Handicapped Act;

(xi) the National Commission on Libraries and Information Science Act;

(xii) the Vocational Education Act of 1963;

(xiii) the Career Education Incentive Act; and

(xiv) section 400A of the General Education Provisions Act, relating to the Federal Education Data Acquisition Council;

(B) with respect to the administration of part B of title V of the Economic Opportunity Act of 1964;

(C) with respect to or being administered by the Secretary of Health, Education, and Welfare through the Office for Civil Rights for the enforcement of provisions of the civil rights laws and educational orders relating to the functions transferred by other subsections of this section and other sections of this title;

(D) with respect to all laws dealing with the relationship between (i) Gallaudet College (including the Model Secondary School for the Deaf), Howard University, the American Printing House for the Blind, and the National Technical Institute for the Deaf, and (ii) the Department of Health, Education, and Welfare;

(E) under subpart A of part IV of title III of the Communications Act of 1934, relating to Federal grants for telecommunications demonstrations;

(F) under subparts II and III of part B of title VIII of the Public Service Act, relating to the establishment of student loan funds and scholarship grant programs for schools of nursing and under subparts I and II of part C of title VIII of such Act, relating to the establishment of student loan insurance and student loan funds for schools of medicine, osteopathy, dentistry, pharmacy, podiatry, optometry, or veterinary medicine; and

(G)(i) under the Rehabilitation Act of 1973, except that the provisions of this subdivision shall not be construed to transfer to the Secretary the functions of the Secretary of Health, Education, and Welfare under sections 222 and 1615 of the Social Security Act, relating to rehabilitation services for disabled individuals and rehabilitation services for blind and disabled individuals respectively; and

(ii) with respect to or being administered by the Secretary of Health, Education, and Welfare through the Commissioner of Rehabilitation Services under the Act entitled "An Act to authorize the operation of stands in Federal buildings by blind persons, to enlarge the economic opportunities of the blind, and

for other purposes", approved June 20, 1936 (commonly referred to as the Randolph-Sheppard Act) (20 U.S.C. 107–107f).

(4) There are transferred to the Secretary all functions of the Commissioner of Rehabilitation of the Department of Health, Education, and Welfare, and the Director of the National Institute of Handicapped Research of the Department of Health, Education, and Welfare under the Rehabilitation Act of 1973.

(5) There are transferred to the Secretary all functions of the National Institute of Education of the Department of Health, Education, and Welfare.

(6) There are transferred to the Secretary all functions of the Director of the Institute of Museum Services of the Department of Health, Education, and Welfare.

(7) Nothing in the provisions of this section or in the provisions of this Act shall authorize the transfer of functions under part A of title V of the Economic Opportunity Act of 1964, relating to Project Head Start, from the Secretary of Health, Education, and Welfare to the Secretary.

TRANSFERS OF AGENCIES AND FUNCTIONS FROM THE DEPARTMENT OF DEFENSE

SEC. 302. (a) (1) There are transferred to the Department all officers, employees, assets, liabilities, contracts, property, and records as are determined by the Director of the Office of Management and Budget to be employed, held, or used primarily in connection with any function of the Office of Dependents Schools of the Department of Defense (and, after June 30, 1979, of the Office of Dependents' Education of the Department of Defense).

(2) There are transferred to the Secretary all functions of the Secretary of Defense relating to the operation of overseas schools for dependents of personnel of the Department of Defense (and, after June 30, 1979, all functions of the Secretary of Defense and the Director of Dependents' Education under the Defense Dependents' Education Act of 1978).

(b) In addition to any other authority available to the Secretary under this or any other Act, the authority of the Secretary of Defense and the Secretaries of the military departments under the Defense Department Overseas Teachers Pay and Personnel Practices Act shall be available to the Secretary with respect to the program transferred under subsection (a).

(c) Notwithstanding the provisions of section 601, the transfer of functions under subsection (a) shall be effective at such time or times and in such manner as the President shall prescribe, but in no case later than three years after the effective date of this Act. Not later than one year after the effective date of this Act, the Secretary shall transmit to the Congress a plan for effecting the transfers of functions under subsection (a). Such plan shall contain recommendations for increasing the participation of parents, teachers, students, school administrators, and members of the Armed Forces in the administration and operation of the schools transferred under this section.

TRANSFERS OF FUNCTIONS FROM THE NATIONAL SCIENCE FOUNDATION

Sec. 303. (a) There are transferred to the Secretary all programs relating to science education of the National Science Foundation or the Director of the National Science Foundation under section 3(a)(1) of the National Science Foundation Act of 1950 established on the day before the effective date of this Act, except the functions and programs, as determined by the Director of the Office of Management and Budget, which relate to (1) fellowships and traineeships integral to the support of scientific research and development, (2) ethical, value, and science policy issues, or (3) communicating science information to nonscientists. Except as provided in section 301(a)(1) of this Act, no mission oriented research functions or programs of the National Science Foundation nor of any other Federal agency shall be transferred by this Act.

(b) The Secretary is authorized to conduct the programs transferred by subsection (a). In conducting such programs, the Secretary shall consult, as appropriate, with the Director of the National Science Foundation.

(c) Nothing in this section is intended to repeal or limit the authority of the National Science Foundation or the Director of the National Science Foundation to initiate and conduct programs not established prior to the effective date of this Act under section 3(a)(1) of the National Science Foundation Act of 1950.

TRANSFERS OF PROGRAMS FROM THE DEPARTMENT OF JUSTICE

Sec. 304. There are transferred to the Secretary all functions of the Attorney General and the Law Enforcement Assistance Administration relating to the student loan and grant programs known as the Law Enforcement and Education Program and the Law Enforcement Intern Program authorized under section 406 (b), (c), and (f) of the Omnibus Crime Control and Safe Streets Act of 1968.

TRANSFERS OF FUNCTIONS FROM THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Sec. 305. There are transferred to the Secretary all functions of the Secretary of Housing and Urban Development under title IV of the Housing Act of 1950 relating to college housing loans.

TRANSFERS OF FUNCTIONS FROM THE DEPARTMENT OF LABOR

Sec. 306. (a) There are transferred to the Secretary all functions of the Secretary of Labor or the Department of Labor under section 303(c)(2) of the Comprehensive Employment and Training Act.

(b) The Secretary is authorized to conduct the functions transferred by subsection (a).

TRANSFER OF THE ADVISORY COUNCIL ON EDUCATION STATISTICS

Sec. 307. There are transferred to the Department all officers, employees, assets, liabilities, contracts, property, and records as are determined by the Director of the Office of Management and Budget to be *employed, held, or used primarily in connection with any function of the Advisory Council on Education Statistics.*

EFFECT OF TRANSFERS

Sec. 308. The transfer of a function or program from an officer or agency to the Secretary shall include the transfer of any aspect of such function or program vested in a subordinate of such officer or in a component of such agency.

TITLE IV—ADMINISTRATIVE PROVISIONS

Part A—PERSONNEL PROVISIONS

OFFICERS AND EMPLOYEES

Sec. 401. (a) The Secretary is authorized to appoint and fix the compensation of such officers and employees, including attorneys, as may be necessary to carry out the functions of the Secretary and the Department. Except as otherwise provided by law, such officers and employees shall be appointed in accordance with the provisions of title 5, United States Code, governing appointments in the competitive service, and compensated in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title.

(b)(1) Subject to the provisions of chapter 51 of title 5, United States Code, but notwithstanding the last two sentences of section 5108 (a) of such title, the Secretary may place in grades GS–16, GS–17 and GS–18 all positions in such grades assigned and employed on February 1, 1979, in connection with functions transferred under this Act, subject to the limitation of the first sentence of section 5108(a) of such title.

(2) Appointments under this subsection may be made without regard to the provisions of section 3324 of title 5, United States Code, relating to the approval by the Office of Personnel Management of appointments in grades GS–16, GS–17, and GS–18, if the individual placed in such position is transferred to the Department in connection with a transfer of functions under this Act and, immediately before the effective date of this Act, held a position involving duties comparable to those of such position.

(3) Notwithstanding the second sentence of section 3104 of title 5 of the United States Code, the Secretary may establish within the Office created by section 210 of this Act all scientific, professional, and technical positions outside the General Schedule assigned and employed on the day preceding the effective date of this Act in connection with functions, offices, and programs transferred under this Act.

(4) The authority of the Secretary under this subsection to appoint personnel without regard to sections 3104, 3324, and 5108(a) of title 5, United States Code, shall cease with respect to any position when the person first appointed to fill such position no longer holds such position.

(5) For purposes of section 414(a)(3)(A) of the Civil Service Reform Act of 1978, an individual appointed under this subsection

shall be deemed to occupy the same position the individual occupied on the day before the effective date of this Act.

(c)(*1*) *The Secretary may appoint, without regard to the provisions of title 5 of the United States Code governing appointment in the competitive service, scientific, technical, or professional employees to serve in the Office created by section 210 of this Act in a number not to exceed one-third of the total number of employees of such Office and may compensate employees so appointed without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates. The rate of basic compensation for such employees shall not be equal to or in excess of the rate of pay currently paid for GS–16 of the General Schedule under section 5332 of title 5, United States Code.*

(*2*) *Subject to section 3134 of title 5 of the United States Code, but notwithstanding any other provision of law, the Director of the Office of Personnel Management shall establish positions within the Senior Executive Service for fifteen limited term appointees. The Secretary shall appoint individuals to such positions as provided by section 3394 of title 5 of the United States. Any such position shall expire on the latter of the date which is three years after the effective date of this Act or three years after the initial appointment to that position.*

(*d*) *Section 5108* (*a*) *of title 5, United States Code, relating to classification of positions at GS–16, GS–17, and GS–18, is amended by striking out "10,777" and inserting in lieu thereof "10,840".*

(*e*) *Nothing in this Act shall be construed to prevent the application of any Indian preference law in effect on the day before the date of enactment of this Act to any function transferred by this Act and subject to any such law on the day before the date of enactment of this Act. Any function transferred by this Act and subject to any such law shall continue to be subject to any such law.*

(*f*)(*1*)(*A*) *The Secretary is authorized to accept voluntary and uncompensated services without regard to the provisions of section 3679* (*b*) *of the Revised Statutes* (*31 U.S.C. 665*(*b*)), *if such services will not be used to displace Federal employees employed on a full-time, part-time, or seasonal basis.*

(*B*) *The Secretary is authorized to accept volunteer service in accordance with the provisions of section 3111 of title 5, United States Code.*

(*2*) *The Secretary is authorized to provide for incidental expenses, including but not limited to transportation, lodging, and subsistence for such volunteers.*

(*3*) *An individual who provides voluntary services under paragraph* (*1*)(*A*) *of this subsection shall not be considered a Federal employee for any purpose other than for purposes of chapter 81 of title 5, United States Code, relating to compensation for work injuries, and of chapter 171 of title 28, United States Code, relating to tort claims.*

(*g*) *For purposes of any status of forces agreement between the United States and any other country or any international organization, any reference to "civilian component" shall be deemed to include a reference to overseas personnel of the overseas dependents' education system.*

EXPERTS AND CONSULTANTS

Sec. 402. The Secretary may obtain the services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code, and may compensate such experts and consultants at rates not to exceed the daily rate prescribed for GS–18 of the General Schedule under section 5332 of such title.

ANNUAL AUTHORIZATION OF PERSONNEL

Sec. 403. (*a*) *Notwithstanding any other provision of this Act—*

(*1*) *Congress shall authorize the end strength as of the end of each fiscal year for personnel for the Department. Except as provided in subsection* (*b*) (*1*) *for the fiscal year beginning October 1, 1979, and ending September 30, 1980, Congress shall authorize the end strength for any fiscal year by prescribing the maximum number of personnel that may be employed by the Department on the last day of such fiscal year. No funds may be appropriated for any fiscal year to or for the use of personnel of the Department unless the end strength for personnel of the Department for that fiscal year has been authorized by law.*

(*2*) *The end strength for personnel authorized by law for the Department for any fiscal year shall be apportioned among the offices and agencies of the Department in such numbers as the Secretary shall prescribe. Except as provided in subsection* (*b*) (*2*), *the Secretary shall, within one hundred and twenty days after the enactment of legislation authorizing the end strength for personnel of the Department for any fiscal year, prepare and transmit to the Congress a report showing the allocation of such personnel among the offices and agencies of the Department. Such report shall include explanations and justifications for the allocations of personnel made by the Secretary among the offices and agencies of the Department.*

(*3*) *In computing the authorized end strength for personnel of the Department for any fiscal year, there shall be included all direct-hire and indirect-hire personnel employed to perform functions of the Department whether employed on a full-time, part-time, or intermittent basis, but excluding special employment categories for students and disadvantaged youth, including temporary summer employment.*

(*4*) *Whenever any function, power, duty, or activity is transferred or assigned in any fiscal year after the effective date of this Act to the Department from a department or agency outside of the Department, the end strength for personnel authorized for the Department for such fiscal year shall be adjusted to reflect any increases or decreases in personnel required as a result of such transfer or assignment.*

(*b*) (*1*) *For the fiscal year beginning October 1, 1979, and ending September 30, 1980, the Department is authorized an end strength for personnel equal to the sum of* (*A*) *the number of personnel to be employed by the Department under the authorizations provided by other sections of this Act, and* (*B*) *the number of personnel transferred, under authority of this Act, to the Department from* *other departments and agencies of the Government during such fiscal year, as determined by the Director of the Office of Management and Budget. If the Secretary determines such action is necessary for the effective administration of the Department, the Secretary may employ additional personnel during such fiscal year in excess of the number authorized under the preceding sentence, but the number of such additional personnel may not exceed 1 per centum of the number authorized under the preceding sentence.*

(2) *For the fiscal year beginning October 1, 1978, and ending September 30, 1979, the Secretary shall prepare and transmit the report required by subsection* (a)(2) *within one hundred and twenty days after the effective date of this Act.*

Part B—GENERAL PROVISIONS

AUTHORITY OF THE SECRETARY

Sec. 411. In the exercise of the functions transferred under this Act, the Secretary shall have the same authority as the functions of the agency or office, or any part thereof exercising such functions immediatey preceding their transfer, and the actions of the Secretary in exercising such functions shall have the same force and effect as when exercised by such agency or office, or part thereof.

DELEGATION

Sec. 412. Except as otherwise provided in this Act, the Secretary may delegate any function to such officers and employees of the Department as the Secretary may designate, and may authorize such successive redelegations of such functions within the Department as may be necessary or appropriate. No delegation of functions by the Secretary under this section or under any other provision of this Act shall relieve the Secretary of responsibility for the administration of such functions.

REORGANIZATION

Sec. 413. (a) *Subject to the provisions of section 202*(q) *of this Act and subsections* (b) *and* (c) *of this section, the Secretary is authorized to allocate or reallocate functions among the officers of the Department, and to establish, consolidate, alter, or discontinue such organizational entities within the Department as may be necessary or appropriate. The authority of the Secretary under this subsection does not extend to—*

(1) *any office, bureau, unit, or other entity within the Department established by statute or any function vested by statute in such an entity or officer of such an entity;*

(2) *the abolition of organizational entities established by this Act; or*

(3) *the alteration of the delegation of functions under this Act to any specific organizational entity.*

(b)(1) *Except as provided in paragraph* (2) *of this subsection, the Secretary may not consolidate, alter, or discontinue any of the fol-*

lowing statutory entities, or reallocate any functions vested by statute in the following statutory entities:

(A) Office of Bilingual Education;
(B) Teacher Corps;
(C) Community College Unit;
(D) National Center for Education Statistics;
(E) National Institute of Education;
(F) Office of Environmental Education;
(G) Office of Consumers' Education;
(H) Office of Libraries and Learning Resources;
(I) Office of Indian Education;
(J) Office of Career Education;
(K) Office of Non-Public Education;
(L) Institute of Museum Services; and
(M) Administrative units for guidance and counseling programs, the veterans' costs of instruction program, and the program for the gifted and talented children.

(2) The Secretary may not alter, consolidate, or discontinue any organizational entity continued within the Department and described in paragraph (1) of this subsection or reallocate any function vested by statute in such an entity, unless a period of ninety days has passed after the receipt by the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives of notice given by the Secretary containing a full and complete statement of the action proposed to be taken pursuant to this subsection and the facts and circumstances relied upon in support of such proposed action.

(c) On the effective date of this Act, the following entities shall lapse:

(1) the Education Division of the Department of Health, Education, and Welfare, including the Office of Education;

(2) the Office of the Assistant Secretary for Education of the Department of Health, Education, and Welfare;

(3) the Bureau for the Education and Training for the Handicapped of the Department of Health, Education, and Welfare; and

(4) the Bureau of Occupational and Adult Education of the Department of Health, Education, and Welfare.

(d) Whenever the President exercises the authority under section 302(c), the Office of Dependents' Education of the Department of Defense shall lapse.

REPORTING RELATIONSHIPS

Sec. 414. (a) Consistent with the provisions of section 413, and notwithstanding the provisions of the General Education Provisions Act or of any other Act, and office or employee of the Department whose functions were transferred by this Act and who was required prior to the effective date of this Act to report to the Commissioner of Education or the Assistant Secretary for Education of the Department of Health, Education, and Welfare shall report to the Secretary.

(b) The Secretary is authorized to delegate the reporting requirements established by subsection (a) to any other officer or employee of the Department.

RULES

Sec. 415. The Secretary is authorized to prescribe, in accordance with the provisions of chapter 5 of title 5, United States Code, such rules and regulations as may be necessary or appropriate to carry out the functions of the Secretary or the Department.

CONTRACTS

Sec. 416. (a) The Secretary is authorized to enter into and perform such contracts, grants, leases, cooperative agreements, or other similar transactions with the Federal departments and agencies, public agencies, State, local, and tribal governments, private organizations, and individuals, and to make such payments, by way of advance or reimbursement, as the Secretary may deem necessary or appropriate to carry out his functions in administering the Department.

(b) Notwithstanding any other provision of this title, no authority to enter into contracts or to make payments under this title shall be effective except to such extent or in such amounts as are provided in advance under appropriation Acts. This subsection shall not apply with respect to the authority granted under section 423.

TECHNICAL ADVICE

Sec. 417. The Secretary is authorized to provide advice, counsel, and technical assistance to applicants, potential applicants, and other interested persons with respect to any program or function of the Secretary or the Department. The Secretary shall, upon request, provide technical assistance to any State desiring to develop comprehensive plans applicable to two or more programs administered by the Department.

REGIONAL AND FIELD OFFICES

Sec. 418. The Secretary is authorized to establish, maintain, alter, or discontinue such regional or other field offices as may be necessary or appropriate to perform the functions of the Secretary or the Department.

ACQUISITION AND MAINTENANCE OF PROPERTY

Sec. 419. (a) The Secretary is authorized to—

(1) acquire (by purchase, lease, condemnation, or otherwise), construct, improve, repair, operate, and maintain schools and related facilities, laboratories, research and testing sites and facilities, quarters and related accommodations for employees and dependents of employees of the Department, personal property (including patents), or any interest therein, as may be necessary; and

(2) provide by contract or otherwise for the establishment of eating facilities and other necessary facilities for the health and welfare of employees of the Department at its installations, and purchase and maintain equipment therefor.

(b) The authority available to the Secretary of Health, Education, and Welfare under section 524 of the Education Amendments of 1976 shall also be available to the Secretary.

(c) The authority granted by subsection (a) of this section shall be available only with respect to facilities of a special purpose nature that cannot readily be reassigned for similar Federal activities and are not otherwise available for assignment to the Department by the Administrator of General Services.

FACILITIES AT REMOTE LOCATIONS

Sec. 420. (a) The Secretary is authorized to provide, construct, or maintain for employees and their dependents stationed at remote location as necessary and when not otherwise available at such remote locations—

(1) emergency medical services and supplies;

(2) food and other subsistence supplies;

(3) dining facilities;

(4) audiovisual equipment, accessories, and supplies for recreation and training;

(5) reimbursement for food, clothing, medicine, and other supplies furnished by such employees in emergencies for the temporary relief of distressed persons;

(6) living and working quarters and facilities; and

(7) transportation for dependents of employees of the Department to the nearest appropriate deucational facilities.

(b) The furnishing of medical treatment under paragraph (1) of subsection (a) and the furnishing of services and supplies under paragraphs (2) and (3) of subsection (a) shall be at prices reflecting reasonable value as determined by the Secretary.

(c) Proceeds from reimbursements under this section may be credited to the appropriation of funds that bear or will bear all or part of the cost of such work or services or to refund excess sums when necessary.

USE OF FACILITIES

Sec. 421. (a)(1) To carry out the functions of the Secretary, the Secretary may use the research, equipment, services, and facilities of any agency or instrumentality of the United States or of any State, or of any political subdivision thereof, or of any Indian tribe or tribal organization, or of any foreign government with the consent of and with or without reimbursement to such agency, instrumentality, State political subdivision, Indian tribe or tribal organization, for foreign government.

(2) Notwithstanding the transfer of functions from the Secretary of Defense to the Secretary under section 304, all personnel performing such functions shall be treated, for the purpose of access to services and facilities provided by the Department of Defense, as employees of the Department of Defense.

(b) The Secretary is authorized to permit public and private agencies, corporations, associations, Indian tribes or tribal organizations, other organizations, or individuals to use any real property, or any facilities, structures, or other improvements thereon, under the custody and control of the Secretary for Department purposes. The Secretary shall permit the use of such property, facilities, structures, or improvements under such terms and rates and for such period as may be in the public interest, except that the periods of such uses may not exceed five

years. The Secretary may require permittees under this section to recondition and maintain, at their own expense, the real property, facilities, structures, and improvements used by such permittees to a standard satisfactory to the Secretary. This subsection shall not apply to excess property as defined in section 3(e) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 472(e)).

(c) Proceeds from reimbursements under this section may be credited to the appropriation of funds that bear or will bear all or part of such cost of the equipment or facilities provided or to refund excess sums when necessary.

COPYRIGHTS AND PATENTS

SEC. 422. The Secretary is authorized to acquire any of the following described rights if the property acquired thereby is for use by or for, or useful to, the Department:

(1) copyrights, patents, and applications for patents, designs, processes, and manufacturing data;

(2) licenses under copyrights, patents, and applications for patents; and

(3) releases, before suit is brought, for past infringement of patents or copyrights.

GIFTS AND BEQUESTS

SEC. 423. The Secretary is authorized to accept, hold, administer, and utilize gifts, bequests, and devises of property, both real and personal, for the purpose of aiding or facilitating the work of the Department. Gifts, bequests, and devises of money and proceeds from sales of other property received as gifts, bequests, or devises shall be deposited in the Treasury in a separate fund and shall be disbursed upon the order of the Secretary. Property accepted pursuant to this section, and the proceeds thereof, shall be used as nearly as possible in accordance with the terms of the gift, bequest, or devise donating such property. For the purposes of Federal income, estate, and gift taxes, property accepted under this section shall be considered as a gift, bequest, or devise to the United States.

WORKING CAPITAL FUND

SEC. 424. The Secretary is authorized to establish a working capital fund, to be available, to the extent provided in an appropriation Act and without fiscal year limitation, for expenses necessary for the maintenance and operation of such common administrative services as the Secretary finds to be desirable in the interests of economy and efficiency, including such services as a central supply service for stationery and other supplies and equipment for which adequate stocks may be maintained to meet in whole or in part the requirements of the Department and its components; central messenger, mail, telephone, and other communications services; office space, central services for document reproduction, and for graphics and visual aids; and a central library service. The capital of the fund shall consist of any appropriations made for the purpose of providing capital (which appropriations are authorized) and the fair and reasonable value of such *stocks of supplies, equipment, and other assets and inventories on order as the Secretary may transfer to the fund, less the related liabilities and unpaid obligations. Such funds shall be reimbursed in advance from available funds of components of the Department, or from other sources, for supplies and services at rates which will approximate the expense of operation, including the accrual of annual leave and the depreciation of equipment. The fund shall also be credited with receipts from sale or exchange of property and receipts in payments for loss or damage to property owned by the fund. There shall be covered into the United States Treasury as miscellaneous receipts any surplus found in the fund (all assets, liabilities, and prior losses considered) above the amounts transferred or appropriated to establish and maintain such fund. There shall be transferred to the fund the stocks of supplies, equipment, other assets, liabilities, and unpaid obligations relating to the services which the Secretary determines will be performed through the fund.*

FUNDS TRANSFER

SEC. 425. The Secretary may, when authorized in an appropriation Act in any fiscal year, transfer funds from one appropriation to another within the Department, except that no appropriation for any fiscal year shall be either increased or decreased pursuant to this section by more than 5 per centum and no such transfer shall result in increasing any such appropriation above the amount authorized to be appropriated therefor.

SEAL OF THE DEPARTMENT

SEC. 426. The Secretary shall cause a seal of office to be made for the Department of such design as the Secretary shall approve. Judicial notice shall be taken of such seal.

ANNUAL REPORT

SEC. 427. (a) The Secretary shall, as soon as practicable after the end of each fiscal year, prepare and transmit a report to the President for transmission to the Congress concerning the activities of the Department during that fiscal year. Such report shall—

(1) include a statement of the goals, priorities, and plans for the Department which are consistent with the purposes of the Department as specified in section 102 and the findings of this Act as specified in section 101;

(2) contain an assessment of the progress made during that fiscal year and anticipated future progress toward the attainment of—

(A) the goals, priorities, and plans for the Department specified pursuant to paragraph (1);

(B) the effective and efficient management of the Department;

(C) the coordination of the functions of the Department; and

(D) the reduction of excessive or burdensome regulation and of unnecessary duplication and fragmentation in Federal

education programs, to be accompanied where necessary by recommendations for proposed legislation for the achievement of such objectives.

(3) contain and analyze objective data concerning—

(A) changing trends in education, as measured by indicators such as enrollments, expenditures, and numbers of teachers and other categories of professional and related personnel; and

(B) areas of critical concern such as education of the disadvantaged and education in rural and urban areas;

(4) include budget projections for the five fiscal years succeeding the fiscal year for which the report is made which are based on actual or anticipated appropriations for the fiscal year for which the report is made; and

(5) contain a separate section on the recommendations made by the Federal Interagency Committee on Education regarding the improvement of the coordination and development of Federal education programs.

(b)(1) In preparing and developing the report required by subsection (a), the Secretary shall, to the maximum extent practicable, consult with members of the public, including representatives of parents, students, educators, Indian tribes, State and local governments, and other organizations and individuals. Within ninety days after the transmission of such report to the Congress, the Secretary shall hold public hearings in the District of Columbia and in such other locations as the Secretary deems appropriate to maximize public participation.

(2) The Secretary may reimburse any person for expenses reasonably incurred in the course of consultation or hearings under paragraph (1) if such person—

(A) has made or is likely to make a material contribution to the work of the Department; and

(B) could not otherwise participate fully and effectively in such consultation.

(3) For purposes of this section, the term "person" shall have the same meaning as in section 551(2) of title 5, United States Code.

RELATIONSHIP TO GENERAL EDUCATION PROVISIONS ACT

SEC. 428. Except where inconsistent with the provisions of this Act, the General Education Provisions Act shall apply to functions transferred by this Act to the extent applicable immediately prior to the effective date of this Act.

AUTHORIZATION OF APPROPRIATIONS

SEC. 429. Subject to any limitation on appropriations applicable with respect to any function transferred to the Secretary, there are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act and to enable the Secretary to administer and manage the Department. Funds appropriated in accordance with this section shall remain available until expended.

TITLE V—TRANSITIONAL, SAVINGS, AND CONFORMING PROVISIONS

TRANSFER AND ALLOCATIONS OF APPROPRIATIONS AND PERSONNEL

Sec. 501. (a) Except as otherwise provided in this Act, the personnel employed in connection with, and the assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available to, or to be made available in connection with the functions transferred by this Act, subject to section 202 of the Budget and Accounting Procedures Act of 1950, are transferred to the Secretary for appropriate allocation. Unexpended funds transferred pursuant to this subsection shall be used only for the purposes for which the funds were originally authorized and appropriated.

(b) Positions expressly specified by statute or reorganization plan to carry out functions transferred by this Act, personnel occupying those positions on the effective date of this Act, and personnel authorized to receive compensation in such positions at the rate prescribed for offices and positions at level I, II, III, IV, or V of the Executive Schedule contained in sections 5312 through 5316 of title 5, United States Code, on the effective date of this Act, shall be subject to the provisions of section 503.

EFFECT ON PERSONNEL

Sec. 502. (a) Except as otherwise provided in this Act, the transfer pursuant to this title of full-time personnel (except special Government employees) and part-time personnel holding permanent positions shall not cause any such employee to be separated or reduced in grade or compensation for one year after such transfer or after the effective date of this Act, whichever is later.

(b) Any person who, on the day before the effective date of this Act, held a position compensated in accordance with the Executive Schedule prescribed in chapter 53 of title 5, United States Code, and who, without a break in service, is appointed in the Department to a position having duties comparable to the duties performed immediately preceding such appointment shall continue to be compensated in such new position at not less than the rate provided for such previous position for the duration of the service of such person in such new opsition.

AGENCY TERMINATIONS

Sec. 503. Except as otherwise provided in this Act, whenever all of the functions of any agency, commission, or other body, or any component thereof, have been terminated or transferred by this Act from that agency, commission, or other body, or component thereof, such agency, commission, or other body, or component, shall terminate. If an agency, commission, or other body, or any component thereof, terminates pursuant to the provisions of the preceding sentence, each position and office therein which was expressly authorized by law, or the incumbent of which was authorized to receive compensation at the *rates prescribed for an office or position at level II, III, IV, or V of the Executive Schedule contained in sections 5313 through 5316 of title 5, United States Code, shall terminate.*

INCIDENTAL TRANSFERS

SEC. 504. (a) The Director of the Office of Management and Budget, at such time or times as such Director shall provide, is authorized and directed to make such determinations as may be necessary with regard to any function transferred by this Act, and to make such additional incidental dispositions of personnel, assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available in connection with the functions transferred by this Act, as may be necessary to carry out the provisions of this Act. The Director of the Office of Management and Budget shall provide for the termination of the affairs of all agencies, commissions, offices, and other bodies terminated by this Act and for such further measures and dispositions as may be necessary to effectuate the purposes of this Act.

(b) After consultation with the Director of the Office of Personnel Management, the Director of the Office of Management and Budget is authorized, at such time as the Director of the Office of Management and Budget provides, to make such determinations as may be necessary with regard to the transfer of positions within the Senior Executive Service in connection with functions transferred by this Act.

SAVINGS PROVISIONS

SEC. 505. (a) All orders, determinations, rules, regulations, permits, grants, contracts, certificates, licenses, and privileges—

(1) which have been issued, made, granted, or allowed to become effective by the President, any Federal department or agency or official thereof, or by a court of competent jurisdiction, in the performance of functions which are transferred under this Act to the Department or the Secretary, and

(2) which are in effect at the time this Act takes effect,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with the law by the President, the Secretary, or other authorized official, a court of competent jurisdiction, or by operation of law.

(b)(1) The provisions of this Act shall not affect any proceedings, including notices of proposed rulemaking, or any application for any license, permit, certificate, or financial assistance pending on the effective date of this Act before any department, agency, commission, or component thereof, functions of which are transferred by this Act; but such proceedings and applications, to the extent that they relate to functions so transferred, shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted; and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by the Secretary, by a court of competent jurisdiction, or by operation of law. Nothing in this subsection shall be deemed to prohibit the discontinu-

ance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this Act had not been enacted.

(2) The Secretary is authorized to promulgate regulations providing for the orderly transfer of proceedings continued under paragraph (1) to the Department.

(c) Except as provided in subsection (e)—

(1) the provisions of this Act shall not effect suits commenced prior to the effective date of this Act, and

(2) in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and effect as if this Act had not been enacted.

(d) No suit, action, or other proceeding commenced by or against any officers in the official capacity of such individual as an officer or any department or agency, functions of which are transferred by this Act, shall abate by reason of the enactment of this Act. No cause of action by or against any department or agency, functions of which a transferred by this Act, or by or against any officer thereof in the official capacity of such officer shall abate by reason of the enactment of this Act.

(e) If, before the date on which this Act takes effect, any department or agency, or officer thereof in the official capacity of such officer, is a party to a suit, and under this Act any function of such department, agency, or officer is transferred to the Secretary or any other official of the Department, then such suit shall be continued with the Secretary or other appropriate official of the Department substituted or added as a party.

(f) Orders and actions of the Secretary in the exercise of functions transferred under this Act shall be subject to judicial review to the same extent and in the same manner as if such orders and actions had been by the agency or office, or part thereof, exercising such functions, immediately preceding their transfer. Any statutory requirements relating to notice, hearings, action upon the record, or administrative review that apply to any function transferred by this Act shall apply to the exercise of such function by the Secretary.

SEPARABILITY

SEC. 506. If any provision of this Act or the application thereof to any person or circumstance is held invalid, neither the remainder of this Act nor the application of such provision to other persons or circumstances shall be affected thereby.

REFERENCE

SEC. 507. With respect to any functions transferred by this Act and exercised after the effective date of this Act, reference in any other Federal law to any department, commission, or agency or to any officer or office the functions of which are so transferred shall be deemed to refer to the Secretary or Department.

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 508. (a) Section 19(d)(1) of title 3, United States Code, is amended by inserting immediately before the period a comma and the following: "Secretary of Education".

(b) Section 101 of title 5, United States Code, is amended by adding at the end thereof the following: "The Department of Education.".

(c) Section 5312 of title 5, United States Codes, is amended by adding at the end thereof the following:

"(15) Secretary of Education.".

(d) Section 5314 of title 5, United States Code, is amended by adding at the end thereof the following:

"(70) Under Secretary of Education.".

(e) Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following:

"(128) Assistant Secretaries of Education (6).

"(129) Director of the Office for Civil Rights of the Department of Education.

"(130) General Counsel of the Department of Education.

"(131) Inspector General of the Department of Education.".

(f)(1) Section 5316 (41) of title 5, United States Code, is repealed.

(2) Section 5316 of such title is amended by adding at the end thereof the following:

"(152) Administrator of Education for Overseas Dependents of the Department of Education.

"(153) Additional Officer, Department of Education.".

(g) Section 5 of the Alcohol and Drug Abuse Education Act is amended—

(1) by inserting "of Health and Welfare, the Secretary of Education," after "Secretary"; and

(2) by striking out "the Department of Health, Education, and Welfare" and inserting in lieu thereof "the Department of Health and Human Services, the Department of Education,".

(h)(1) Section 203 of the Rehabilitation Act of 1973 is amended by striking out "Commissioner, the Commissioner" and inserting "Secretary".

(2) Section 507 of such Act is amended by striking out "Health, Education, and Welfare," and inserting "Education, the Secretary of Health and Human Services,".

AMENDMENTS TO THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

Sec. 509. (a) Section 306 of the Comprehensive Employment and Training Act of 1973 is amended to read as follows:

"CONSULTATION WITH THE SECRETARIES OF EDUCATION AND OF HEALTH AND HUMAN SERVICES

"Sec. 306. The Secretary of Labor shall consult with the Secretary of Health and Human Services with respect to arrangements for services of a health or human services character under this Act. The Secretary of Labor shall consult with the Secretary of Education with respect to arrangements for services of an educational nature under this Act, and the Secretary of Education shall solicit the advice and comments of State educational agencies with respect to education services. Such education services include but are not limited to basic or general education; educational programs conducted for offenders; institutional training; health care, child care, and other supportive services; and new careers and job restructuring in the health, education, and welfare professions. When the Secretary of Labor arranges

for the provision of basic education and vocational training directly, pursuant to the provisions of this title, the Secretary of Labor shall obtain the approval of the Secretary of Education for such arrangements.".

(b) Section 303(c)(3) of such Act is amended to read as follows:

"(d) For the purposes of carrying out subsections (b) and (c) of this section, the Secretary shall reserve from funds available for this title an amount equal to not less than 4⅝ per centum of the amount allocated pursuant to section 202(a).".

AMENDMENT TO THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965

Sec. 510. Section 103 (c) (2) (B) of the Elementary and Secondary Education Act of 1965 is amended by adding at the end thereof the following new sentence: "The Secrteary of Health and Human Services shall transmit the information required by this subparagraph to the Secretary of Education not later than February 1 of each year.".

AMENDMENTS TO THE DEFENSE DEPENDENTS' EDUCATION ACT OF 1978

Sec. 511. (a) (1) The last sentence of section 1410 (a) (1) of the Defense Dependents' Education Act of 1978 is amended by striking out "an equal number of representatives of sponsors of students enrolled in the school and of employees working at the school" and inserting "an equal number of representatives of professional employee organizations, school administrators, and representatives of organizations of parents of dependents enrolled in the school".

(2) The last sentence of section 1410(b) of such Act is amended by striking out "Secretary of Defense" and inserting "Secretary of Education, in consultation with the Secretary of Defense,".

(b)(1) Section 1411(a) of such Act is amended—

(A) by striking out "Defense" in the first sentence and inserting "Education"; and

(B) by striking out paragraphs (1) through (3) and inserting the following:

"(1) the Administrator of Education for Overseas Dependents, who shall be the chairman of the council;

"(2) twelve individuals appointed by the Secretary of Education, who shall be individuals who have demonstrated an interest in the fields of primary or secondary education and who shall include representatives of professional employee organizations, school administrators, representatives of organizations of parents of dependents enrolled in the dependents' education system, and one student enrolled in such system;

"(3) a representative of the Secretary of the Army, of the Secretary of the Navy, and of the Secretary of the Air Force; and

"(4) a representative of the Secretary of Education and of the Secretary of Defense.".

(2) Section 1411(b) of such Act is amended—

(A) by striking out "three" and inserting "two"; and

(B) by amending paragraph (1) to read as follows:

"(1) of the members first appointed under such paragraph, six shall serve for a term of one year and six shall serve for a term of two years, as determined by the Secretary of Education at the time of their appointment, and".

(c) Section 1411(c)(2) of such Act is amended to read as follows:

"(2) study and make recommendations concerning the gradual transfer of the Overseas Dependents' Education system to the Department of Education, including—

"(A) the development of an efficient mode of operation of the system in the Department of Education;

"(B) the development of close working relationships and sound cooperation between the Department of Education and the Department of Defense; and

"(C) the development of a plan to insure the maximum participation of parents and dependents in the administration and operation of the system.".

REDESIGNATION

Sec. 512. (a) Notwithstanding the provisions of section 601, the Department of Health, Education, and Welfare is redesignated the Department of Health and Human Services, and the Secretary of Health, Education, and Welfare is redesignated the Secretary of Health and Human Services upon the date of enactment of this Act.

(b) Any reference to the Department of Health, Education, and Welfare, the Secretary of Health, Education, and Welfare, or any other official of the Department of Health, Education, and Welfare in any law, rule, regulation, certificate, directive, instruction, or other official paper in force on the effective date of this Act shall be deemed to refer and apply to the Department of Health and Human Services, the Secretary of Health and Human Services, or the appropriate official of the Department of Health and Human Services, respectively, except to the extent such reference is to a function transferred to the Secretary under this Act.

TRANSITION

Sec. 513. With the consent of the appropriate department or agency head concerned, the Secretary is authorized to utilize the services to such officers, employees, and other personnel of the departments and agencies of the executive branch for such period of time as may reasonably be needed to facilitate the orderly transfer of functions under this Act.

TITLE VI—EFFECTIVE DATE AND INTERIM APPOINTMENTS

EFFECTIVE DATE

Sec. 601. (a) The provisions of this Act shall take effect one hundred and eighty days after the Secretary first takes office, or on such earlier date as the President may prescribe and publish in the Federal Register, except that at any time after the date of enactment of this Act—

(1) any of the officers provided for in title II of this Act may be nominated and appointed as provided in such title, and

(2) the Secretary may promulgate regulations pursuant to section 505(b)(2) of this Act.

(*b*) *Funds available to any department or agency* (*or any official or component thereof*), *the functions of which are transferred to the Secretary by this Act, may, with the approval of the Director of the Office of Management and Budget, be used to pay the compensation and expenses of any officer appointed pursuant to this Act until such time as funds for that purpose are othewise available.*

INTERIM APPOINTMENTS

Sec. 602. (*a*) *In the event that one or more officers required by this Act to be appointed by and with the advice and consent of the Senate shall not have entered upon office on the effective date of this Act and notwithstanding any other provisions of law, the President may designate an officer in the executive branch to act in such office for one hundred and twenty days or until the office is filled as provided in this Act, whichever occurs first.*

(*b*) *Any officer acting in an office in the Department pursuant to the provisions of subsection* (*a*) *shall receive compensation at the rate prescribed for such office under this Act.*

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